

Please provide information on any existing or forthcoming good practices or initiatives of gender-responsive migration legislation, policies or practices in the country/ies your organization is working on.

1.

The newly passed Law on Asylum and Temporary Protection is the improvement in comparison to the previous normative framework, since it explicitly prescribes a few major principles on which the system of asylum and provision of the temporary protection is based:

- **The principle of family unity:**

Competent bodies are obliged to take all available measures with the aim of sustaining of the family unity during the procedure as well as upon the approval of the right to asylum or temporary protection. The persons whose right to asylum or temporary protection was approved are entitled to the right of joining the family together, pursuant to the provisions of this law.

- **The principle of protection of the best interest of a minor:**

The authorities are obliged during the enforcement of the provisions of this law to in accordance with the principle of the best interest of a minor. In the assessment of the best interest of a minor, what is taken into consideration is the well-being, social development and the origin of the minor, the opinion of the minor depending on his/her age and maturity, the principle of the family unity as well as the protection and security of the minor, especially when there is a doubt that the minor is the victim of the human trafficking or the victim of domestic violence or other forms of gender-based violence.

The minor who is not accompanied will receive the assigned guardian by the guardianship body as soon as the fact whether the minor is indeed not accompanied is confirmed and not later before the submission of the request for asylum. The temporary guardian is obliged to inform the unaccompanied minor without any delay on the asylum procedure, his/her rights and obligations. The unaccompanied minor is interviewed in the presence of the temporary guardian.

The actions upon the request for asylum of an unaccompanied minor as well as other procedures referring to the rights of the unaccompanied minor have the priority advantage in comparison to other procedures.

- **The principle of gender equality and sensitivity**

The law stipulates the interpretation of its provisions in a gender-sensitive manner.

The seeker, upon his/her request, is allowed to file the request for asylum and to be interviewed by the person of the same gender or to be interviewed with the assistance of a translator or interpreter of the same gender, except in situations when it is impossible or it is connected to the difficulties for the body conducting the asylum procedure. This principle is applied without any specific request of the asylum seeker during the search, bodily check-ups and other activities in procedure which involve the physical contact with the seeker.

Female persons accompanied by a male person seeking for asylum file the request and issue the statement separately from their companions.

- **The principle of provision of special procedural and acceptance guarantees**

In the asylum procedure the specific situation of the persons who need special procedural or acceptance guarantees, such as minors, unaccompanied minors, persons with disabilities, elderly persons, pregnant women, single parents with minor children, victims of human trafficking, severely ill children, persons with mental disorders as well as persons who were tortured, raped or exposed to other severe forms of psychological, physical or sexual harassment, such as women victims of genital mutilation are especially taken care of.

Gender-based violence is explicitly recognized by the Law as a form of persecution so it is prescribed that the act of persecution is **especially** physical or psychological violence, including sexual and gender-based violence and acts which are as they are related to gender and children.

The Law on Asylum and Temporary Protection in the English language may be found at the Internet page of UNHCR

<http://www.unhcr.rs/media/docs/2018/LawOnAsylumAndTemporaryProtectionRS.pdf>

2.

In the Republic of Serbia, the execution of Standard operating procedures of the Republic of Serbia for the prevention and protection of persons from mixed migrations from gender-based violence (SOP). The Protector of Citizens actively participates in the operation of the Work group for the execution of SOP and so far, on a few occasions he commented on draft versions of the document. SOP is designed for all bodies, institutions and organizations involved in the work with migrants (police, health centers, centers for social work and other institutions of social protection, centers for family accommodation and adoption, Center for the protection of human-trafficking victims, Commissariat for refugees and migrations, Red Cross of Serbia, UNHCR, UNICEF and international and domestic NGO). SOP is based on the principle that prevention and suppression of gender based violence and response to it require joint and synchronized activities of all bodies and institutions.

SOP aims at the standardization of the work with migrants in the context of protection from gender-based violence and establishment of the system of coordination and inter-departmental approach to violence. The purpose of these procedures is also to provide fast identification and adequate protection of the victims of gender-based violence. More specifically, SOP will establish standards of activities in response to gender-based violence, define the roles, obligations and procedures; improve the position of the victim of gender-based violence; provide that the best interests of the victim are of crucial importance in the activities of bodies; prevent the activities which lead to secondary victimization of the victim; uniform the activities of different professionals.

3.

The law on the prevention of domestic violence, in compliance with recommendations and initiatives of the Protector of Citizens from previous years, introduced new measures and obligations for authorities, such as urgent measures for the prevention of violence, the obligation of coordination and cooperation of bodies, establishment of the groups for coordination and cooperation which include representatives of police, guardianship body, and prosecutor's offices. It is in fact the groups for coordination and cooperation and their operation (the group is obliged to meet every 15 days and to review all cases of violence and to agree about activities and the preparation of individual plans of protection for victims) what resulted in the improvement of the response of the system to the domestic violence.

4.

Children in movement encountered in Serbia are entitled to immediate inclusion in elementary and high school education without any expenses. This right is guaranteed by the Law on Fundamentals of the Education System and the Law on Asylum and Temporary Protection. Children are included in schools immediately upon their arrival and accommodation and they are provided with the assistance in learning of the Serbian language. The inclusion of children in educational process in a short time period is of multiple importances for children, not only regarding the acquisition and keeping of academic titles. The inclusion of children in schools means the inclusion into their peer group and the activities which are out of the framework of their traumatic experiences which the children suffered. With regards to that, the inclusion into the educational process is also of the rehabilitation character and the character of integration activities. It is of great importance to quickly include girls into the educational process, since they may be in a particularly sensitive position due to assigned gender roles in the country of their origin, experience of gender-based violence towards them, mother or other close female person and exclusion from the educational process.

Please indicate any challenges and/or obstacles in the implementation of gender-responsive migration legislation and/or policies?

The National strategy for the prevention and suppression of violence against women in families and partner relations ceased to be valid in 2015, AP for its application was never adopted and new Strategy still has not been adopted even though the Protector of Citizens issued recommendations.

Even apart from the adoption of the Law on the Prevention of Domestic Violence, there are still shortcomings in the protection of women from violence, which represent a major obstacle in providing female victims with an efficient, quick and effective protection¹:

- A unique record on cases of violence against women is not kept so the verification and comparison of data is virtually impossible.
- Violence and forms of violence are not recognized to a sufficient extent
- Employees in charge do not understand sufficiently the position of a female victim and the lack of balance of power between the victim and the person who committed violence;
- Violence is often given the meaning of a family or partner conflict which does not require the reaction of a body,
- Cooperation and exchange of information is insufficient,
- Measures are not taken efficiently and timely
- Violence is not sanctioned or it is done inadequately
- Existing regulations and work standards are not applied effective and timely,
- For omissions in work, the individual responsibility of employees and heads of bodies is insufficiently determined.

These problems are especially reflected to the position of female migrants victims of the gender-based violence, whose protection and accommodation requires additional measures and activities taking into account their status, cultural, religious and other characteristics which may be the challenge in the determination of facts, provision of measures of support and rehabilitation. In this process one of aggravating factors is also the fact that Serbia is a transit country and that victims of violence very frequently leave Serbia and remain without adequate systemic support and protection.

¹ Special report available at:

<http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3710-2015-02-24-13-35-38>.

The Protector of Citizens has been saying for years that the response of the state to domestic and gender-based violence and negligence of children is not adequate and since the measures of economic politics and limitations to public sector employment are in force, they caused the situation in which the bodies which are involved in the protection from violence do not have at their disposal either financial or human resources for complete application of the work standard in the situations of gender-based violence. These economic measures, which are in force since 2014, were introduced linearly, without previous assessment of the impact to vulnerable groups, including victims of violence. Therefore the number of employees performing the jobs of protection of women from violence, especially at guardianship bodies, is below minimum level, the services for female victims, such as safe houses, SOS phone lines and service of economic empowerment and independence are insufficiently developed and public servants who act in cases of violence are insufficiently and unevenly trained. The insufficient number of employees conditions very frequently the inadequate response to gender-based violence among female migrants due to the inability of the system to respond equally fast to the increasing number of cases of reporting of domestic and gender-based violence and violence against children. The Protector of Citizens issued comprehensive recommendations to competent bodies including the Ministry of Labor, Employment, Veteran and Social Affairs and the Ministry of Finance which received the recommendations to provide without any further delay the number of experts in the system of social and family-legal protection adequate for the increased number of cases of reporting of the violence against women and children.

Even though the Law on Asylum and Temporary Protection guarantees to users of these rights also the access to the labor market, the bad economic situation prevents the work engagement to an adequate extent. Female migrants do not have at their disposal programs of employment and other forms of work engagement and all women in Serbia who may be referred to as the members of vulnerable groups (women victims of violence, women with disabilities, women at the countryside, Roma women and others) face the same problem.