



Council of the
European Union

Brussels, 17 March 2022
(OR. fr)

6549/22

LIMITE

JAI 242
ASIM 18
RELEX 236
MIGR 59
COWEB 17

NOTE

From: Presidency
To: Delegations

Subject: Operationalization of the Pact – Migratory relations with Serbia

Delegations will find in Annex a **courtesy translation** of doc. 6549/22 INIT.

The purpose of this discussion is to exchange views on cooperation between the EU and Serbia on migration. Delegations will be invited to define priority guidelines for improving this cooperation, with a view to an action plan that the Commission and the EEAS could produce at the request of the Council. The Presidency suggests that Serbia be identified as an additional priority country for an action plan.

1. **Serbia is a transit country, via the "Western Balkan route", on the border of the European Union**

Serbia is an important transit country for migrants seeking to enter the Schengen area via the Western Balkan route.

Irregular arrivals

During the 2015 migration crisis, 665,000 of the more than one million irregular entries into the EU took the "Western Balkan route", making it the busiest route to the EU. The conclusion of the EU-Turkey declaration on 18 March 2016 has led to a decrease in migrant arrivals via this route. The majority of migrants now arrive from northern Greece to Serbia or Croatia and then to the Schengen area via Hungary or Slovenia. In 2021, the rate of illegal EU border crossings to and from the Western Balkans increased by 129% compared to 2020 (61,618 compared to 26,918 in 2020).

The majority of attempts to enter Serbian territory are made by land, through the border with Northern Macedonia (in January 2022, out of 1,281 persons intercepted or deterred from entering Serbian territory, 1,168 were intercepted at the Macedonian border). In recent years, the route from northern Greece via Albania and Kosovo* has also become more important. In 2021, the number of entries and attempted entries decreased by 15.5% compared to 2020 (17,156 in 2020 compared to 14,833 in 2021). In January 2022, 534 persons were refused entry to Serbia, 454 of them at Belgrade airport. These are mainly third-country nationals not subject to visas who do not meet the requirements for their stay in Serbia (Indians, Turks, Tunisians, Cubans, etc.).

* This designation is without prejudice to positions on status, and is in line with UN Security Council Resolution 1244 (1999) and the Opinion of the International Court of Justice on Kosovo's declaration of independence.

Reception capacities

Serbia has 19 governmental reception facilities (reception centres for asylum seekers and reception and transit centres) with a total capacity of 6,000 places (+10% in case of emergency). A limited number of irregular migrants with a prospect of return are accommodated in the closed centre in Padinska Skela, which has 50 places. Two mobile shelters for migrants at the Plandište and Dimitrovgrad entry points are finalised, and the one in Dimitrovgrad is operational. The Serbian Asylum Office is not systematically present in these centres. Currently, there are almost 4,000 migrants in centres in Serbia, which is a decrease compared to the same period in 2020 (9,000 during the state of health emergency and 6,550 by the end of 2020). The low number of applications in the asylum procedure compared to declarations of intent shows that Serbia is still a transit country. During January 2022, 201 persons expressed their intention to apply for asylum in Serbia, including 48 minors, mostly Afghans, Burundians and Syrians.

In the context of the Afghan crisis, the Serbian authorities have not received a contingent of Afghan refugees for possible resettlement to the United States, unlike Albania, Kosovo and Northern Macedonia. Afghans, currently numbering 1,500, remain one of the main nationalities in reception facilities (35% in January 2022) and in transit, mainly to Romania and Hungary.

Migration management

Based on the Convention on Police Cooperation in South East Europe, the Serbian Ministry of Interior has established direct cooperation with all neighbouring countries (cooperation in the form of joint patrols was suspended in April 2020 due to the health crisis, but has recently resumed). Information is exchanged through joint contact centres.

Bilateral agreements have been signed with Northern Macedonia to combat migrant smuggling and human trafficking and with Bosnia and Herzegovina on border crossing, cross-border smuggling and border crossing points.

In February 2020, the government adopted the 2021-2027 strategy on economic migration aimed at promoting circular migration by retaining workers and encouraging diaspora professionals to return home.

2. Cooperation with the EU on migration

EU candidate country - Serbia was granted EU candidate status in March 2012 and opened accession negotiations in January 2014. Accession issues related to asylum and migration are dealt with in the framework of the Fundamentals block in which Chapter 24 "Justice, Freedom, Security" is included. According to the new methodology adopted in March 2020 and implemented for Serbia since 2021, the overall pace of accession negotiations depends on the reforms and progress made in the building block. This progress is assessed twice a year by the Commission, in its annual 'Enlargement Package' report, followed by Council conclusions, and in a non-paper specific to the building block.

The country has also signed a Stabilisation and Association Agreement with the EU which entered into force in September 2013. Within this framework, migration and asylum issues are monitored in a Justice, Freedom and Security subcommittee and in the Stabilisation and Association Committee and Council.

Cooperation with EU Agencies - Serbia has working arrangements in place with Frontex (2009), CEPOL (2017) and EMCDDA (2020). A status agreement that allows **Frontex** to deploy the teams of the permanent contingent of the European Border and Coast Guard Corps on the Serbian-Bulgarian border entered into force on 1 May 2021 and joint operations started on 16 June 2021. Serbia has established a joint roadmap with the European Asylum Agency (EUAA) for the period 2020-2022 to develop a national asylum and reception system in line with EU standards. In 2021, the EAS established an office within the EU delegation in Belgrade resulting in an increased presence of the agency in the region. An agreement on operational and strategic cooperation with **Europol** was signed in 2014. Cooperation with Europol's Anti-Migrant Smuggling Centre is daily and takes place on several levels, including through EMPACT. Serbia has participated in several international operations to combat irregular migration and trafficking in human beings. The country has been granted observer status in the reception network organised by the AEA. A European Migration Liaison Officer (**EMLO**), responsible for the whole region, is posted in Belgrade. Following Serbia's interest, Member States approved Serbia to become a non-voting observer member of the European Migration Network (EMN).

Return and readmission - An EU-Serbia readmission agreement has been in force since January 2008 and is facilitated by implementing protocols concluded with 21 Member States. The implementation of this agreement is considered satisfactory, with Serbia having improved the implementation of the provisions on third country nationals since 2018. At the last Joint Readmission Committee meeting in 2020 (by written exchanges) Member States confirmed the satisfactory cooperation with Serbia. 6 205 persons were ordered to leave the EU territory in 2020, compared to 8 380 in 2019 and 7 295 in 2018. 3,195 persons were removed on the basis of an order to leave the territory in 2020 (51% return rate) and 5,245 in 2019 (63%).

Serbia has also signed 11 bilateral readmission agreements, including with Bosnia and Herzegovina, Northern Macedonia and Montenegro. In January 2022, Serbia signed a readmission agreement with the United Kingdom. Negotiations are underway to sign such agreements with Ukraine, Azerbaijan, Turkey, Georgia, Belarus and Argentina. Proposals for the conclusion of bilateral agreements and protocols have been sent to Afghanistan, Pakistan, Algeria, Morocco, Iraq and Iran. Negotiations have been launched with the United Arab Emirates, Belarus and Georgia.

Serbia has an Assisted Voluntary Return Programme for the period 2019-2021, which provides funding for information and identification of potential returnees. With the support of the EU and Member States, the International Organisation for Migration (IOM) implements the Assisted Voluntary Return and Reintegration (AVRR) programme, which aims to build the capacity of the Serbian return system and facilitate access to assisted voluntary return. In 2020, 61 migrants applied for assisted voluntary return and 67 were repatriated to their country of origin, including 14 to Iraq, 13 to Tunisia, 7 to Algeria, 6 to Iran and 4 to Afghanistan.

Asylum - As confirmed by the European Commission in its 2021 Annual Report on the Enlargement Package, Serbia's legal framework is largely aligned with the EU acquis. Serbia still needs to adapt its legislation, in particular as regards "effective access to the procedure" (Article 36 of the Law on Asylum and Temporary Protection), "appeal bodies" (Article 21), "rights and obligations of applicants/persons granted international protection" (Articles 48-73), "free legal aid" (Article 56) and "safe third country procedure" (Article 45).

Visas - Serbian citizens have benefited from a visa-free regime since December 2009. As a result, Serbia is required to align itself with EU visa policy. However, the Commission considered in its fourth report under the visa suspension mechanism, adopted in August 2021¹, that Serbia should better align its visa-free policy with that of the European Union².

¹ COM(2021) 602 final.

² Indeed, several countries benefit from a visa exemption to enter Serbia while being subject to a visa requirement in the EU: Armenia, Azerbaijan, Bahrain, Belarus, Bolivia, Burundi, China, Cuba, Guinea-Bissau, India, Indonesia, Jamaica, Kyrgyzstan, Kuwait, Kazakhstan, Mongolia, Oman, Qatar, Russia, Suriname, Tunisia and Turkey

Funding - As a candidate country, Serbia is a beneficiary of the Instrument for Pre-Accession Assistance (IPA), which covers the area of migration, helping the Western Balkan countries to address urgent needs and develop their long-term capacities. Since 2015, the EU has provided almost €230 million for emergency migration assistance in the region (support to reception centres, delivery of food, clothing, provision of clean water, access to health care and education, support to the asylum process) and €95 million (IPA I and II) has been dedicated to capacity building of border authorities and monitoring mechanisms. 260 million was developed to ensure an improvement of the asylum procedure and reception while strengthening the fight against human trafficking and the system of returns to the country of origin. Under IPA III, funds are now allocated in a thematic approach, divided into thematic 'windows'. Migration issues are addressed under Window 1 "Rule of Law, Fundamental Rights and Democracy", which has an envisaged amount of almost EUR 2.1 billion over 2021-2027, through the thematic priority "Migration and Border Management".

The support measure for migration management in the Western Balkans adopted in December 2021 at the level of 19.2 million (EU regional support to protection-sensitive migration management systems in the Western Balkans - PHASE III), would be followed by a new cross-cutting measure to be presented at the next IPA Committee meeting on 25 March.

3. Cooperation priorities

In its Annual Progress Report published in October 2021, the Commission stated: "*Serbia continued to significantly contribute, as a transit country, to the management of the mixed migration flows towards the EU by playing an active and constructive role and cooperating effectively with its neighbours and EU Member States. It also continued to effectively implement the integrated border management strategy and its action plan. Serbia has yet to establish a convincing track record of effective investigations, prosecutions and final convictions in serious and organised crime cases, and to further align with the EU visa policy. The recommendations from the 2020 country report remain outstanding, except for continuing increasing border controls, especially border surveillance including identification and registration measures in full respect of fundamental rights, and increase efforts to detect and prevent smuggling of migrants.*"

In the coming period, Serbia should in particular:

- *adopt the Schengen Action Plan by ensuring a sufficient involvement of all relevant government institutions;*
- *refrain from further diverging from the EU visa policy and take concrete steps to fully align with it»*

Therefore, the intensification of EU-Serbia cooperation seems to be explored, taking into account the road map approach, including the following three axes:

- **The strengthening of Serbian capacities in migration management**, notably with the adoption of the Schengen Action Plan. In the area of asylum, progress could be further improved on access to the asylum procedure and the provision of information to migrants on this procedure, as well as access to information and legal advice for asylum seekers at Belgrade International Airport, where the asylum procedures at the border, provided for in the Asylum Law, are not yet implemented. Support from the European Asylum Agency could be considered in this respect, possibly with the appointment of a dedicated liaison officer. Cooperation in the field of migrant smuggling and the sharing of information obtained could also be intensified.
- **The alignment with the common EU visa policy**, through the implementation of all obligations under the visa-free regime for Serbian citizens and the related roadmap, in particular as regards visa exemptions to Serbia for citizens of several countries on the EU visa requirements list and those which present irregular migration or security risks to the EU.

- **Support for readmission with third countries**, where appropriate with the support of Frontex, the absence of which is a significant obstacle for Serbia in managing returns.

On the basis of these elements, the Presidency would like to invite delegations to answer the following questions:

- **Do the three axes mentioned above seem relevant to you and, if so, what European or national means, in addition to those already deployed, could be mobilised to achieve concrete results? How could EU agencies contribute to this?**
- **Should other areas of cooperation be considered, and if so, which ones?**
- **Taking into account all these elements for discussion, do you consider it desirable to develop an action plan for Serbia?**
