

## Introduction

**Despite closure of the borders with FYROM and Bulgaria since 20 March, migrants\* have continued to arrive in Serbia, mainly through illegal means.** As of 8 April approximately 1,300 migrants have been recorded in Serbia<sup>1</sup>, mostly hosted in transit sites. For those in transit sites, there are three options: continue to travel via alternative routes, seek asylum in Serbia, or apply for assisted voluntary return.

The lack of legal options for onward movement has led to an increase in the number of asylum applications throughout the Western Balkans, including in Serbia. Following previous rapid assessments that examined the situation in transit sites and the presence of alternative routes, **this report focuses on the main trends and characteristics of the asylum process in Serbia.**

## Methodology

This report summarises data collected by REACH through interviews with migrants, NGOs supporting migrants' applications for asylum through legal assistance, and key informants from authorities including representatives from the Commissariat for Refugees and Migration in Belgrade, Adasevci, Sid, Principovac and Presevo from 7-9 April 2016. Interview findings are triangulated with a review of secondary data and media.

1 UNHCR, Regional Bureau Europe, Daily Report 8 April 2016, <http://data.unhcr.org/Mediterranean/download.php?id=1018>

## Asylum Process in Serbia

In Serbia, the asylum process, rights and obligations of asylum seekers, refugees and persons in need of subsidiary protection are governed by the 2008 Law on Asylum and the 2012 Law on Migration Management (Articles 15 and 16). The first-instance procedure, including taking decisions on the outcome of asylum applications, is conducted by the Serbian Ministry of Interior (MOI)'s Border Police Directorate. Appeals to first-instance decisions, in the case of a negative decision, are reviewed by the Asylum Commission comprised of 9 members appointed to four-year terms in office by the Government. Outcomes may be challenged through the Administrative Court of Serbia.<sup>2</sup>

Those wishing to apply for asylum within Serbia must first lodge their intent to seek asylum with authorities at a police station within 72 hours of arrival in the country.<sup>3</sup> Asylum seekers must provide identity documents, along with their full names, country of origin and fingerprints. Following the registration of intent to seek asylum, asylum seekers are transferred from transit sites and/or registration points to asylum centres, where they are required to remain until their asylum request has been reviewed and a decision is given. The law allocates responsibility for accommodation and integration of people seeking asylum or

2 Ibid

3 W2EU.INFO – Welcome to Europe, Serbia> Asylum, accessed 11 April 2016



Migrants wait in a park in Belgrade, Serbia

subsidiary protection to the Commissariat for Refugees and Migration.<sup>4</sup>

## Who is seeking asylum in Serbia?

**The large majority of interviewed migrants indicated they would not seek asylum in Serbia and will keep trying to reach an EU country first.**<sup>5</sup> Many of those who apply for asylum are using the asylum process as a means of legalising their prolonged stay in

4 Belgrade Centre for Human Rights, "An NGO Perspective on the State of Asylum in the Region of Southeastern Europe", 2014, pg. 72

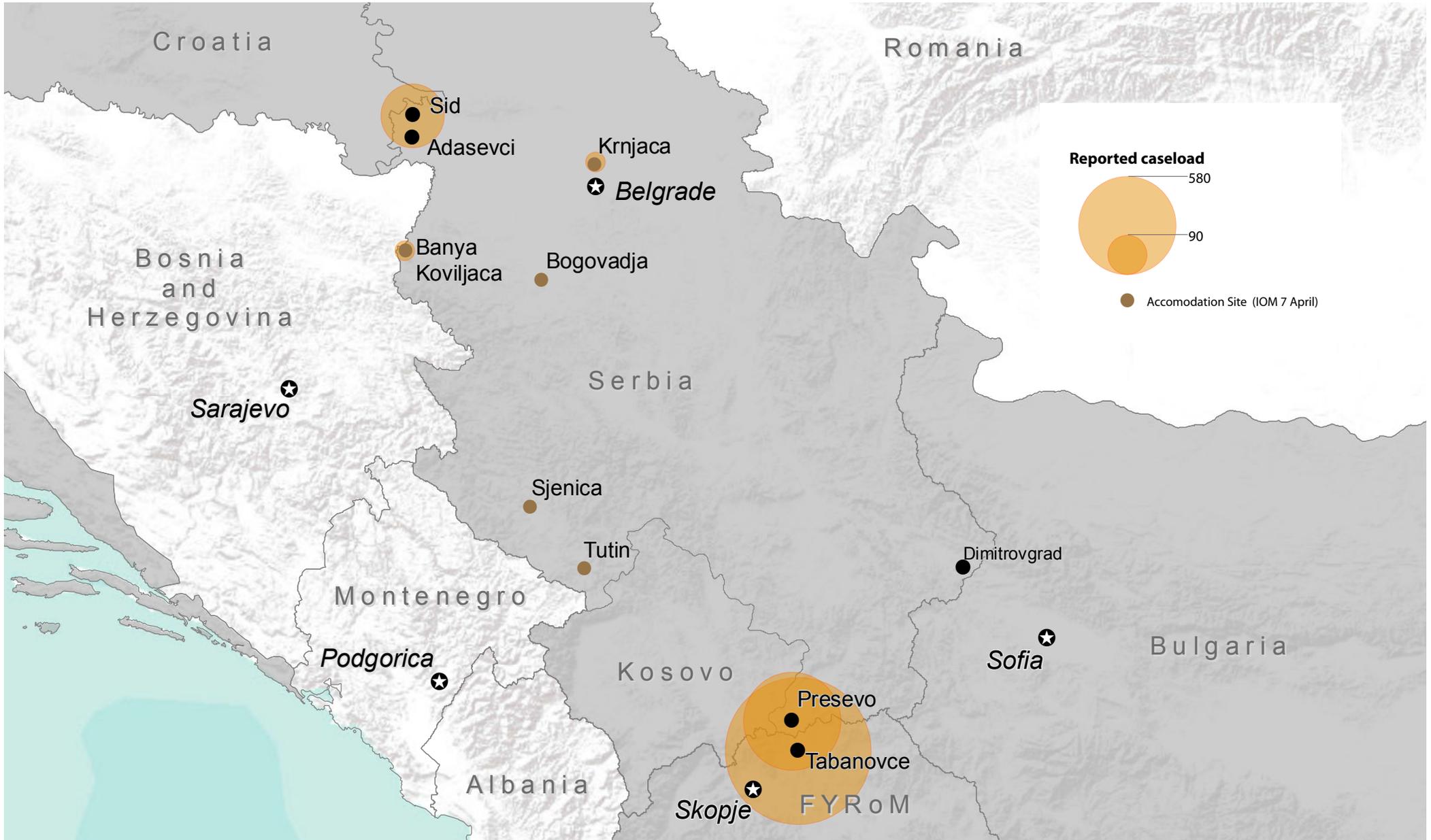
5 REACH interviews 7-9 April 2016

Serbia without fear of deportation and in order to access additional forms of assistance. The fear of deportation has been exacerbated by the first returns from Greece to Turkey as part of the EU-Turkey plan.

**Between March and April 2016, the Ministry of Interior reported 896 people had expressed intentions to seek asylum in Serbia.**<sup>6</sup> Of those who registered intentions to seek asylum in March 49.5% were from Iraq, 17.2% from Afghanistan, and 12.3% from Syria.<sup>7</sup> Nearly half (43%) of those who applied

6 Combined figures for March and April, as of 11 April 2016; KIRKS Migration Newsletter 6th April 2016. UNHCR, Serbia Daily Update 8-9 April 2016

7 UNHCR, Serbia Daily Updates 1-3 April 2016



Map 1: Overview of Asylum Centres, Transit Sites and Registration Centres in Serbia and FYROM

for asylum in March were single men.<sup>8</sup> **The majority of these recent asylum seekers are migrants who reached Serbia after 20 March and who had to apply for asylum in order to regularise their situation**, thereby extending their stay in Serbia and improving their access to humanitarian aid.

However, the majority of migrants who were already in transit sites prior to 20 March have not applied asylum, as they are not required to do so.

Attitudes of smugglers towards the asylum process appear to vary across Serbia. In Belgrade, there were reports of verbal abuse towards NGO workers distributing asylum information leaflets in a park.<sup>9</sup> However in Dimitrovgrad, smugglers were found to encourage migrants to register for asylum in the police station in order to ensure their legal stay until they can be transported through the borders to Hungary or other EU countries.

## Challenges faced by migrants seeking asylum in Serbia

Interviews conducted by REACH with asylum seekers and NGOs identified a number of challenges related to the asylum process.

### 1. Length of time for processing asylum applications

The process of seeking asylum in Serbia is not time bound and can take from six months to one year. The small number of applications assessed in March (95) compared to the total

8 Ibid

9 UNHCR Coordination Meeting, Belgrade, 5 April 2016

number of applications submitted (699)<sup>10</sup> indicates that there may be issues related to government capacity to review such large numbers. In interviews conducted by REACH, the **long potential wait was considered a significant obstacle, particularly for groups including vulnerable individuals such as children and pregnant women**, as well as those who are hoping to apply for family reunification.

### 2. Lack of identity documents

Many migrants, especially those who arrive to Serbia through illegal means, are lacking identity documents. Despite this, interviewed NGOs and asylum seekers confirmed that this has not prevented them from seeking asylum. It will however further increase the length of time in proceeding with the application.

### 3. Migrants previously expelled from the country

Migrants who had previously received an expulsion order by Serbian authorities as a result of entering the country illegally faced issues when applying for asylum upon re-entering Serbian territory. According to NGOs, these migrants should still be legally entitled to apply for asylum in Serbia. However, NGOs and some of the interviewed migrants reported that their asylum applications have been rejected on the basis of having previously been in the territory of Serbia and not lodging an application for asylum before receiving an expulsion order by authorities.

10 UNHCR Serbia Daily Updates 4 April 2016

### 4. Motivation for leaving area of origin

Legally, all migrants have the right to apply for asylum and are entitled to an appeal process should they receive a negative decision. During interviews conducted in Belgrade, there were reports (from Pakistani migrants) of asylum applications not being recorded by authorities on the grounds of failure to indicate persecution as a reason for fleeing.

### 5. Mistrust of authorities

The process of initiating the asylum application through registration at a police station has been reported as problematic by NGOs assisting migrants with the asylum process. This is related to fear of authorities and/or the police as a result of previous negative experiences in other transit countries such as arbitrary detention and abuse.<sup>11</sup>

### 6. Failure to remain in the asylum centres

Asylum seekers who leave the asylum centres without proof of an alternative address within Serbia approved by authorities risk having their asylum application dropped. **Of the 95 applications for asylum that were processed in March, 45 had already been dropped after the applicants could not be found in residence at the prescribed asylum centre.**<sup>12</sup> REACH came across one such case during its interviews: a Sudanese man reported his asylum claim had been dropped after he left the asylum centre. Upon return a week later,

11 MSF Sea, Medical update on border guard brutality, Idomeni via Twitter 19 March 2016.

12 UNHCR, Serbia Daily Updates 4 April 2016

he was told by the centre's authorities that he was no longer eligible to access the asylum centre as his application had been dropped due to his absence. When he tried to reapply for asylum at the police station, he was issued with deportation papers.

## Asylum centres

Asylum centres, despite reportedly being in poor condition, provide food, water, sanitation and medical assistance to asylum seekers. At the time of writing, **a total of 80 asylum seekers were staying in five asylum centres run by the Commissariat of Refugees and Migration.** Krnjaca, located near Belgrade and the most populated, is currently accommodating around 40 people. It is the preferred asylum centre due to its proximity to Belgrade and access to public transport. According to those interviewed, migrants are able to indicate which asylum centre they would prefer during their application process.

**Overall, the majority of those interviewed indicated that the asylum centre was merely a place to rest before continuing their journey.**

As a result, asylum seekers are reluctant to stay in the asylum centres for long. This is attributed to their distance to borders, and to main gathering points such as Belgrade, as well as the low number of NGOs operating within the centre. Specifically, reported factors include:

- The asylum centres are located in areas far from the main city and lack regular access to public transportation, isolating groups who are sent there to await the

outcome of their asylum application.

- **Reports of separation of families by the authorities have been collected from a broad range of actors**, and therefore added to the fears migrants already expressed towards these asylum centres.
- **Some asylum centres are still hosting internally displaced persons and refugees from Croatia and Kosovo (UN Resolution 1244) who have remained displaced since the late 90's.** According to the Internal Displacement Monitoring Centre (IDMC) many are unable to return to their homes due to ongoing disputes regarding post-war property restitution as well as issues related to ethnic tensions.<sup>13</sup> Note that these persons are not included in the above-reported number of individuals hosted in the asylum centres.

### Assisted Voluntary Return (AVR)

An alternative to further illegal travel or application for asylum in Serbia is to apply for assisted voluntary return (AVR). This process is overseen by the International Organisation for Migration (IOM) and allows those who have decided to return to their country of origin but lack financial resources to do so, together with those who no longer wish to continue their asylum claims or who have had their claims rejected. **Of the 33 applications for AVR lodged, 10 Afghans from the Sid transit sites are now being assisted for voluntary return while another 23 of other nationalities have initiated the process.** For many AVR is

<sup>13</sup> IDMC, Submission to the EU Directorate General for Enlargement, 21 May 2014



Image 2: Krnjaca Asylum Centre

considered a last resort, when aspirations for further migration have dissipated along with their financial resources.

### Conclusion

Most migrants who arrived to Serbia prior to 20 March and became stranded due to official border closures are not likely to apply for asylum under current conditions. The reasons for this are three-fold. First, the majority interviewed still intend to reach Central Europe. Second, the conditions within the asylum centres combined with their location and lack of access to public transportation make them unattractive for long-term stays. Third, those who arrived prior to 20 March are in possession of transit documents that legalised their stay before border closures, as

well as securing them access to shelter and assistance. Authorities have continued to re-issue documents for these groups and have not pursued deportation for those who have not lodged asylum claims. However, **migrants who reached Serbia after 20 March have been lodging asylum claims as a means of legalising extended stays (beyond 72 hours) in Serbia and to access shelter and assistance.**

For those considering applying for asylum, various challenges have been reported. Among them are the significant delays in processing applications, which are likely to continue with increased numbers of applications. Other challenges reported by migrants and NGOs are related to lack of identity documents, which further slow down the application process, and mistrust of local authorities. Some migrants have also faced difficulties related to movements out of transit sites, and to multiple entries into Serbia.

Despite these fears, **few applications for asylum have been rejected to date, and no deportations have been recorded.** Similarly, the Commissariat for Refugees and Migration confirmed that there are no plans to penalize migrants who arrived by legal means and over stay the 72 hour transit period, although it is unclear whether this will change.

At the time of writing, a new asylum law is being tabled, pending the outcome of the Serbian parliamentary elections to be held 24 April. If adopted, the new law could simplify the asylum process and includes a longer period

for migrants to seek asylum upon arrival (15 days instead of 72 hours after police station registration). Therefore, it is likely that in the coming weeks the asylum process could change to allow authorities to better process the increasing number of applications.

With authorities well aware of many migrants' intention to move beyond Serbia, the proposed increase to time period within which an application can be filed may offer several benefits. For migrants, the proposed changes would provide them with more time for them to legally gather resources and/or to rest before continuing their journey. For authorities, this decision is likely to lessen the burden on the asylum system, by limiting the number of asylum applications from individuals who do not intend to complete the asylum process.

#### About REACH

REACH facilitates the development of information tools and products that enhance the capacity of aid actors to make evidence-based decisions in emergency, recovery and development contexts.

Further information is available at: [www.reach-initiative.org](http://www.reach-initiative.org).