

# MIRREM

Measuring Irregular Migration

[www.irregularmigration.eu](http://www.irregularmigration.eu)

## Serbia Country Brief on Irregular Migration Policy Context

**AUTHOR:**

Katarina Jovanovic



Co-funded by:



Canada Excellence  
Research Chair in  
Migration & Integration

## Table of contents

---

Serbia .....	4
1.1 POLICY PRIORITIES .....	4
1.2 OVERVIEW OF THE SERBIAN POLICY FRAMEWORK .....	5
1.2.1 Policy implementation measures .....	5
1.2.2 Policy evolution: Main turning points .....	6
1.2.3 Policy impact .....	6
1.2.4 Policy Challenges in Addressing Migrant Irregularity .....	7
1.3 THE SPECTRUM OF MIGRANT IRREGULARITY IN SERBIA: CATEGORIES AND PATHWAYS INTO/OUT OF IRREGULARITY .....	10
1.3.1 Pathways into and out of irregularity .....	11
ANNEX 1: Policy and Legal Frameworks .....	14
ABOUT THE AUTHORS .....	16

## LIST OF TABLES

---

Table 1: Relevant Serbian institutions .....	8
Table 2: Categories of migrant irregularity in Serbia .....	10

## THE MIRREM PROJECT

MIRREM examines estimates and statistical indicators on the irregular migrant population in Europe as well as related policies, including the regularisation of migrants in irregular situations.

---

MIRREM analyses policies defining migrant irregularity, stakeholders' data needs and usage, and assesses existing estimates and statistical indicators on irregular migration in the countries under study and at the EU level. Using several coordinated pilots, the project develops new and innovative methods for measuring irregular migration and explores if and how these instruments can be applied in other socio-economic or institutional contexts. Based on a broad mapping of regularisation practices in the EU as well as detailed case studies, MIRREM will develop 'regularisation scenarios' to better understand conditions under which regularisation should be considered as a policy option. Together with expert groups that will be set up on irregular migration data and regularisation, respectively, the project will synthesise findings into a Handbook on data on irregular migration and a Handbook on pathways out of irregularity. The project's research covers 20 countries, including 12 EU countries and the United Kingdom. This Deliverable of 15 country briefs is developed as part of Work Package 3 Politics: Understanding Legal and Policy Contexts.

### **TO CITE:**

Jovanovic, K. 2024. Serbia Country Brief on Irregular Migration Policy Context. MIRREM Report. Krems: University for Continuing Education Krems (Danube University Krems). <https://doi.org/10.5281/zenodo.12645888>

### **KEYWORDS**

Irregular migration; policy measures; pathways into and out of irregularity

### **FUNDING ACKNOWLEDGEMENT**

Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the Research Executive Agency. Neither the European Union nor the granting authority can be held responsible for them.

In addition, MIRREM benefits from funding provided by UK Research and Innovation (UKRI) under the UK government's Horizon Europe funding guarantee. The Canadian research component of this project is undertaken, in part, thanks to funding from the Canada Excellence Research Chairs Program of the Government of Canada.

# Serbia

This Brief provides an abridged overview of the national policy landscape on irregular migration in the country, based on a more extensive policy analysis. It also provides an overview of the main types of migrant irregularity that emerge and the pathways into and out of irregularity, including regularisations as relevant. Annexed to this Deliverable is also an overview of the mapped legal and policy frameworks.

## 1.1 POLICY PRIORITIES

---

- **Border management and deportations:**

Strategy for Combatting Irregular Migration (*Strategija Za Upravljanje Migracijama* [Migration Management Strategy], 2009), established in 2009, focused on aligning Serbian laws with international legislation and EU directives. Policy priority, as reflected in the strategy, is to have better border control and more efficient return system in place. Border control and return is seen to be exercised through measures such as strengthening cross-border cooperation with neighbouring countries, enhancing control of foreigners' movement and residence, effectively implementing readmission agreements, introducing compensatory measures, and preventing alternative routes, especially with Bosnia and Herzegovina and Montenegro.

- **Introduction of "Transit Camps" and The Emphasis on Serbia as a "Transit Country":**

Post border closures in 2015, especially in neighbouring Hungary, Serbia's strategy towards managing migrant populations underwent transformation. The country began propagating the narrative of Serbia being a "transit country." This led to the establishment of "transit camps". Such centres and camps, particularly in border regions, have been observed in other countries as well, reflecting a broader trend in European migration management strategies to compartmentalize and manage migrant populations (Bobic, 2013). This portrayal aligns with discussions in European Union documents that highlight Serbia's role as a key transit nation in the Western Balkans route (European Parliament, 2019).

- **Revision and Implementation of the Foreigners Law**

Serbia's Foreigners Law (*Zakon o Strancima* [Law on Foreigners], 2023) mandates that the legislation indicates that any individual entering Serbia irregularly, such as

without official border crossings or proper documentation, is committing an administrative offense. The only exception to this rule is if an individual seeks asylum. This law, combined with the asylum provisions, creates a structured yet intricate system. One of the major policy discussion topics relates to allowing migrants to stay under certain circumstances even though they did not apply for protection. Such laws, emphasizing border controls and deterrence, align with the increasing push within the EU for member states and candidate countries to strengthen external border controls (UNHCR, 2020).

## 1.2 OVERVIEW OF THE SERBIAN POLICY FRAMEWORK

---

See Annex 1 for an overview of the legal and policy frameworks mapped for this country.

### 1.2.1 Policy implementation measures

---

- **Strategy on Migration Management and the Action Plan that followed the Strategy:**

Although this strategy has been approved in 2009 and it had only one Action plan as a direct implementation pathway of the strategy, it remained the most important document that serves as a guideline for all subsequent measures and is echoing through most migration practices until now. The strategy addresses the long-term objectives of managing migration in Serbia, focusing primarily on areas like enhancing border management, facilitating the employment of migrants, combating human trafficking, and formulating laws related to asylum and temporary protection. Additionally, it outlines the overall processes for seeking asylum and the regularisation of migrant status. The Action plan followed with actions such as: Institutionalising the jurisdiction over the collection and analysis of the data on the extent and flows of migration, defining the migration profile of the Republic of Serbia and updating it regularly, strengthening of the capacity of the Coordinating Body for Monitoring and Management of Migration and to make its work more effective and efficient, encompass normative prerequisites for a comprehensive and effective migration management harmonized with EU standards, familiarising the public with the problems of migrants etc.

- **Use of transit centres: Tolerated stay for those irregular migrants who did not apply for asylum protection or have been refused.**

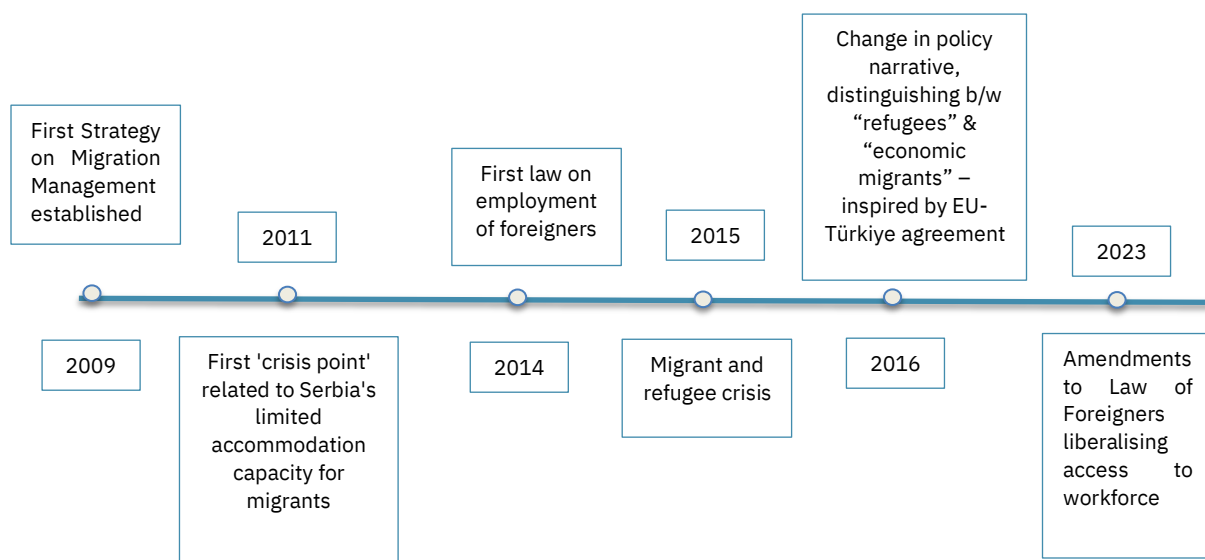
Although this is not an official policy of the state, tolerated permission for irregular migrants to stay in the country specifically and exclusively within transit centres is a prevailing practice of Serbian authorities. While in these transit centres, migrants have access to rights such as housing and food, but limited access to healthcare and other rights that asylum seekers have. This practice is not regulated by official regulations (like the practice with asylum seekers), the authorities permit those

migrants who do not want to ask for asylum to stay in shelter offered by the state for, presumably short, period until they find their way out of the country. On average, they stay in these centres for a few weeks and then leave to go to “game” (irregularly crossing the EU border). These centres exist because the system for deportation of those irregularly staying in the country is not properly working and most people in this status are not being deported although the law states so.

- **Shortening the period in which migrants applying for asylum can get working permits in Serbia.**

This policy measure affects irregular migrants by facilitating the process of accessing work permits. This is the last amendment of The Foreigners Law that has been approved in 2023 and although it does not directly target the irregular migrants it is something that can indirectly impact on the situation of irregular migrants in the country who may submit an asylum claim (Jelačić Kojić et al., 2022).

### 1.2.2 Policy evolution: Main turning points



### 1.2.3 Policy impact

- **Changes in asylum registrations**

At first, official policies were aimed at introducing all illegal migrants to the asylum procedure. Whether migrants intend to undergo asylum procedures or simply seek temporary benefits (like a legal 72-hour stay, health services, and accommodation),

many expressed only a nominal interest in asylum to avail these advantages. This practice led to criticisms of the system's inefficiency, as a significant number only feigned asylum interest without plans to stay. Policy shifts in 2018 led to less stringent registration requirements, resulting in noticeable data discrepancies. The recorded registrations became markedly lower than the actual number of entrants, a disparity that persists to the present day.

- **EU and Hungarian policy impacts in Serbia**

Serbia's migration policy evolution has been heavily shaped by its aspirations to align with the European Union, especially since 2009 when substantial policy development commenced, primarily motivated by EU accession criteria. This era signalled a move towards a more thorough development of asylum policies, a trend that persisted until 2014. However, the emphasis extended beyond legal frameworks, with 2011 marking a notable shift towards improving accommodation centres, a response to the steadily rising number of migrants in need of shelter. After the EU Türkiye agreement and pressures from Hungarian policy changes Serbian official narrative has changed and migrants were divided into two categories: economic migrants and refugees although the structure and number of migrants coming from specific countries of origin have not changed. Hungary's transit zones effectively reduced asylum application channels, as those denied access would be sent back to Serbia, while accepted applicants would move further into Hungary. Such policies indirectly discouraged migrants from seeking asylum in Serbia, exemplifying how broader European decisions inadvertently affected Serbia's irregular migrants (Gardos, 2020).

- **Reliance on migrant smugglers**

From 2020 onwards, the previously tolerated modes of crossing and humanitarian corridors ceased to exist. Since then, according to our experts, the reliance on smugglers has become the exclusive means of crossing, drastically worsening the situation for migrants. Smugglers become the only mean of crossing the green borders as well as the only mean of transferring migrants from borders to shelters and to the next border which gave them not only were over the migrants but also moved smuggling far from official institutions and possibility of migrant protection.

#### ***1.2.4 Policy Challenges in Addressing Migrant Irregularity***

---

- **Delays in policy implementation**

The Strategy for Migration Management has been developed since 2009 covering the main policy points of national interest on great number of themes concerning migration management in Serbia but has never been properly implemented due to lack of an Action Plan. This has made enactment of new laws, policies as well as addressing migrations in practice chaotic and not consistent.

- **Lack of will from state officials' side to regulate migration**

Migrants have been viewed as exclusively transit population since the first regulations have been made. There has not been serious or systematic effort to include them in Serbian society or to grant them protection for them to stay longer in the country with all rights that belong to them. There is evidence that even those that are interested to stay in Serbia are discouraged to seek asylum in different ways (transit centres, long administrative procedures etc.)

- **Inefficient return mechanisms**

Irregular migrants should be deported to the country of origin (or the country they came from) once they get return decision, according to Serbian law. However, due to the lack of resources Serbia is rarely able to implement return, leaving a certain number of irregular migrants to remain or pass through the country for a longer-term.

Table 1: Relevant Serbian institutions

Sr. No.	Institution/department	Responsibilities	Web link
1.	The border police department, department for suppression of irregular migrations	Determining whether the migrants are irregular or not, informing about asylum procedure, border control,	<a href="#">LINK (SRP)</a>
2.	The Commissariat for Refugees and Migration of the Republic of Serbia (SCRM)	Gathering and analysis of data relevant to the migration management; Establishing a uniform system for collecting, organizing and sharing information; Identifying and proposing objectives and priorities of migration policy; Proposing and taking measures for the implementation of migration policy and Coordination of state bodies, which perform tasks related to the migration management.	<a href="#">LINK (EN)</a>
3.	Asylum Office	Its main tasks are conducting procedures relating to asylum and aliens as well as granting residence permits in cases of exceptional circumstances.	<a href="#">LINK (SRP)</a>
4.	UNHCR	Mostly consultative and regulative role. Collecting information on arrivals, identifying the most vulnerable categories and referring them to the appropriate services, focusing on persons with international protection needs, improving protection and response capacity, including access to territory and asylum procedure and identification of asylum-seekers and persons	<a href="#">LINK (EN)</a>



		with specific needs for appropriate referrals, policy making. Supporting migrants and Government in migration issues.	
5.	Group 484	Mostly consultative role. Through fieldwork initiatives in direct contact with migrants and refugees regardless of their status. D developed educational programme and advocacy initiatives that place migration topics in a broader social context and public discourse.	<a href="#">LINK (EN)</a>
6.	KlikAktiv – Centre for development of social policies	A local civil society organisation which provides free legal and psychosocial services to both regular and irregular migrants. Directly working on the field and present on the north borders of Serbia monitoring violent pushbacks and providing services to people on the move who are accommodated in informal settlements (squats) in northern border area between Serbia and EU member states: Croatia, Hungary and Romania.	<a href="#">LINK (EN)</a>
7.	Belgrade Centre for Human Rights	Mostly working with asylum seekers, has a consultative role. Providing legal assistance to asylum seekers, Humanitarian assistance, Drafting model laws and projects for the reform and improvement of state institutions.	<a href="#">LINK (SRP)</a>
8.	Astra – anti trafficking action	Local NGO dedicated to the eradication of all forms of exploitation and trafficking in human beings, especially women and children, as well as providing support in the search for missing children. Working with irregular migrants which are trafficking victims.	<a href="#">LINK (EN)</a>
9.	HCIT	Local organisation working in northern Serbia (Vojvodina) offering legal information on access to the asylum procedure, recording and documenting human rights violations in border areas, especially the violation of the prohibition of collective expulsion of foreigners.	<a href="#">LINK (SRP)</a>
10.	IOM	Working on post-emergency humanitarian assistance programmes in Serbia, psychosocial support, transition and recovery support, counter-trafficking, assisted voluntary return, compensation programmes, durable solutions for refugees and Internally Displaced Persons (IDPs), capacity building in migration	<a href="#">LINK (EN)</a>

		management, labour migration, and migration and development. Supporting migrants and Government in migration issues.	
--	--	--	--

### 1.3 THE SPECTRUM OF MIGRANT IRREGULARITY IN SERBIA: CATEGORIES AND PATHWAYS INTO/OUT OF IRREGULARITY

Table 2: Categories of migrant irregularity in Serbia

Most relevant categories of migrants in an irregular situation	Description (who does this category apply to, what conditions may lead to this category, and what are the implications of being in such a situation)
Rejected asylum seeker	A person covered by a first instance or final decision rejecting an application for international protection, including decisions considering applications as inadmissible or as unfounded and decisions under priority and accelerated procedures, taken by administrative or judicial bodies during the reference period. Also, people who got issued with a return decision who are not removed from the country.
Migrant in an irregular situation - one that has never entered asylum procedure (tolerated within transit centres)	A person that has never applied for asylum or showed intention to do so, that has entered the country illegally and decided to, after receiving the official decision to leave the country in the next 72 hours, stay after that period. Usually staying in private accommodation or "transit" centres and are interested to move fast further to EU. In this case the stay is tolerated in the sense that no one will ask migrants for asylum claim documents while letting you stay in transit centres, but at least officially, work and living in Serbia is not allowed for this population. There are some accounts that those in this status have been tolerated in the terms of labour market but this can't be proven.
Over-stayer	A person who has legally entered but then stayed in Serbia beyond the allowed duration of their permitted stay without the appropriate visa

	(typically 30 days), or of their visa and /or residence permit.
Irregular migrant pushed back from another country (tolerated within transit centres)	This is a specific category of irregular migrants. Most of them were pushed back after crossing a border with EU (Hungary, Croatia, Romania etc.), they mostly already passed through Serbia, refused the asylum procedure, and now do not have a right to seek asylum again. <sup>1</sup> Also, there is a certain number of these migrants who never passed through Serbia but are pushed-back as if they passed through the country. They are tolerated to stay in the transit centres but not to regularly live and work without the fear of deportation.
Most relevant categories of migrants with a reasonable claim to a provisional status	Conditions (e.g. who does this category apply to, under what conditions, who is exempted, implications)
Migrants showing intention to seek asylum but still not entering the procedure (making a claim)	Showing intention to seek asylum and applying to asylum are two different things by Serbian law. Once the intention to seek asylum is made in Police, migrants have 72 hours to apply for asylum and formally enter the procedure. During those 72 hours they are regularly staying in the country, if they do not apply for protection during that period their status turns into illegal.
Trafficking victims	If determined that migrants are victims of trafficking than they receive provisional protection from the state by Foreigners law (article 28)

### 1.3.1 Pathways into and out of irregularity

Most common pathways into irregularity:

- **Irregular entry without applying for asylum:**  
One of the main pathways into irregularity is irregular entry into Serbia while opting not to claim asylum/other protection status. There are many reasons why migrants choose to do so – most of them are interested to move through Serbia fast and not to

<sup>1</sup> According to the experts interviewed, it is a common practice. Official's idea is that if you are refused the procedure before, that means that you do not need protection in Serbia. Only in specific cases humanitarian protection is allowed when someone can get protection after they have been previously rejected. This has happened only a few times do far.

lose time on administration. They are tolerated by officials to stay for a short period in the country, so they use this opportunity to find shelter in so-called transit camps. Officials, on the other hand, do not have resources to deport people irregularly staying in the country, or to stop their entry, so they tolerate their transit through the country and encourage them not to seek asylum.

- **Irregular re-entry for those who already had return decision:**

Those who irregularly enter in the country with a return decision are those who previously went through Serbia, stated that they will not ask for asylum, got the return decision, moved on from Serbia, and then returned or by pushbacks or some other way. This pathway is facilitated by the fact that not claiming for asylum procedure (refusing it) allows migrants to get through the country faster, without administration complications and procedures while having accommodation and food in the meantime. A person who previously refused to seek asylum, but re-enters Serbia cannot apply for it again.

Common pathways out of irregularity:

- **Submission of asylum claim or for another form of protection:**

For now, one of the key pathways for regularisation of irregular migrants' status in Serbia is applying for official protection in some form.

The primary issue is the lack of initiative to establish a well-regulated asylum system and offer migrants support to stay. Addressing this concern would lead to significant on-ground changes, and experts assume that a much larger percentage of individuals would be willing to alter their status and seek legal residence in Serbia. Although temporary protection would be the most promising existing practice to offer a path out of irregularity to migrants and one of the existing practices that could be used (as for Ukrainian refugees) it is not a very plausible scenario because of the officials' lack of interest to legalise the migrants' stay in Serbia and migrants lack of interest to stay in Serbia in order to get protection status. Refugee status and subsidiary protection (other two possible statuses) are very hard to prove and gain and there is even less political will to put them in practice leaving temporary protection as the most promising practice (KlikAktiv - Center for Development of Social Policies, 2023).

## REFERENCES

- Bobic, M. (2013). Imigracija u Srbiji: Stanje i perspektive, tolerancija i integracija. *Demografija*, 10, 99–115.
- European Parliament. (2019). *Migration and asylum: A Challenge for Europe*. European Parliament.  
<https://www.europarl.europa.eu/thinktank/infographics/migration/public>
- Gardos, T. (2020, November 10). Lost in Transit: How Hungary Scrapped Asylum. *Balkan Insight*. <https://balkaninsight.com/2020/11/10/lost-in-transit-how-hungary-scrapped-asylum/>
- Jelačić Kojić, M., Grujičić, G., & Unijat, J. (2022). *Komentari na radne verzije nacrtu zakona o izmenama i dopunama Zakona o strancima, Zakona o azilu i privremenoj zaštiti i Zakona o zapošljavanju stranaca [Comments on draft versions of the law on amendments and supplements to the Law on Foreigners, the Asylum Law and Temporary Protection, and the Law on Employment of Foreigners]*. Grupa 484. [https://www.grupa484.org.rs/h-content/uploads/2022/05/preugovor\\_amandmani\\_7\\_sr\\_grupa\\_484-grupa-484.pdf](https://www.grupa484.org.rs/h-content/uploads/2022/05/preugovor_amandmani_7_sr_grupa_484-grupa-484.pdf)
- KlikAktiv - Center for Development of Social Policies. (2023). *More People, More Police and Less Safety. Annual Report 2022*. Klikaktiv - Center for Development of Social Policies. [https://drive.google.com/file/d/1nQiQvm4atW8ltpjTFTTBGeMseJvzsEO\\_/view](https://drive.google.com/file/d/1nQiQvm4atW8ltpjTFTTBGeMseJvzsEO_/view)
- Strategija Za Upravljanje Migracijama [Migration Management Strategy], Official Gazette of the RS (59) (2009). <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/strategija/2009/59/1>
- UNHCR. (2020). *Desperate Journeys: Refugees and migrants arriving in Europe and at Europe's borders*. <https://www.unhcr.org/desperatejourneys/>
- Zakon o Strancima [Law on Foreigners], Official Gazette of the RS, No. 24/2018, 31/2019, & 62/2023 (2023). [https://www.paragraf.rs/propisi/zakon\\_o\\_strancima.html](https://www.paragraf.rs/propisi/zakon_o_strancima.html)

## ANNEX 1: Policy and Legal Frameworks

Laws and policies on migrant irregularity

Sr. No.	Title of policy/law	Year	Description	Web link to source
1.	The Foreigners Law	2023 (last iteration)	The only law in Serbia directly regulating the status of irregular migrants. If individuals enter without these legalities, they are expected to leave the country. The only exception where the Foreigners Law is not applied is when asylum is sought.	<a href="#">LINK (SRP)</a>
2.	Asylum and Temporary Protection Law	2018	is also related to irregular migrants but only covers asylum seekers, dictating that they are to be placed in asylum centres established by government decisions. Three primary statuses are granted under this: refugee status, subsidiary protection, and temporary protection (including humanitarian protection).	<a href="#">LINK (SRP)</a>
3.	Strategy on combating irregular migrations	2018/19	The strategy aims at harmonising Serbian laws with EU laws and policies on irregular migration. It also strives to give guidelines to increase the number of those who are legally in the country and to decrease the number of irregular migrants. This is mostly being realised through stronger border control and more efficient system of returning people to their countries of origin.	<a href="#">LINK (SRP)</a>
4.	Strategy on migration management	2009	General framework for migration management. It tackles long term goals in Serbian migration management, mostly such as border controls, employment of migrants, fighting trafficking, establishing law on asylum, temporary protection and general pathways to asylum and regularization of the status of irregular migrants. IT is a broad	<a href="#">LINK (SRP)</a>

			strategy and needs Action Plans in order to be fully operational.	
--	--	--	---	--

## Laws and policies indirectly impacting migrant irregularity

Sr. No.	Title of policy/law	Year	Description: How it relates to migrant irregularity	Weblink to source
1.	Law on the employment of foreigners	2014 (2023 last iteration)	Employment of foreigners with approved temporary residence (including temporary residence for humanitarian reasons) is granted under the condition that he has a temporary residence permit and a work permit.	<a href="#">LINK (SRP)</a>
2.	Education Law	2017	Irregular migrants can only access primary education. Assessment of a child's readiness for school is done by the Refugee Commissioner's office, although they lack expert personnel for such evaluations.	<a href="#">LINK (SRP)</a>
3.	Migration Management Law	2012	Primarily administers the Commissioner for Refugees and Migration's duties, such as creating the country's migration profile and records of irregular entries and exits. It doesn't define migrants and refugees' rights and obligations.	<a href="#">LINK (SRP)</a>
4.	Criminal Law	2012	While Serbia doesn't have a dedicated anti-trafficking law, human trafficking is regarded as a criminal offense under the criminal law	<a href="#">LINK (SRP)</a>
5.	Constitution of Republic of Serbia	2006	Granting basic human rights to foreigners regardless of their status	<a href="#">LINK (SRP)</a>
6.	Readmission Agreement with EU	2007	The readmission agreement detects and helps vulnerable groups in irregular migration, making legal and institutional changes, strengthening regional communication etc. Serbia agreed to readmit not only Serbian citizens who have been illegally residing in EU but also citizens of third countries for whom it can be determined that they have had Serbia visa or just came to EU through Serbia.	<a href="#">LINK (SRP)</a>

## ABOUT THE AUTHORS

Katarina Jovanovic is an independent migration researcher with academic and humanitarian context research background.

## COPYRIGHT CLAUSE



This work is licensed by the MIRreM Consortium under a Creative Commons Attribution-ShareAlike 4.0 International License, 2020. For details, see <http://creativecommons.org/licenses/by-sa/4.0/>

## THE MIRREM CONSORTIUM

University for Continuing Education Krems (Coordinator)

European University Institute

University of Osnabrück

University of Maastricht

University of Turku

Complutense University Madrid

Hellenic Foundation for European and Foreign Policy (ELIAMEP)

University of Milan

University of Potsdam

Platform for International Cooperation on Undocumented Migration (PICUM)

International Centre for Migration Policy Development (ICMPD)

Migration Policy Institute Europe (MPI-E)

University of Warsaw

Vrije Universiteit Brussel

Instituto Universitário de Lisboa (ISCTE-CIES)

### ***Associated Partners:***

Toronto Metropolitan University

University of Leicester

University of Oxford