

Chachipe a.s.b.l.
B.p. 97
L – 7201 Bérelange/Luxembourg
e-mail: chachipe.info@gmail.com

6 June 2011

Mr. Boris Tadić
President of the Republic of Serbia

Mr. Mirko Cvetković
Prime Minister

Mr. Ivica Dačić
First Deputy Prime Minister and Minister of the Interior

Mr. Božidar Đelić
Deputy Prime Minister

Mr. Milan Marković
Minister of Human and Minority Rights,
Public Administration and Local Self-Government

Mr. Vuk Jeremić
Minister of Foreign Affairs

Subject: Planned restrictions on the freedom of movement of Serbian citizens

Honourable Sirs,

We are organisations working in the field of refugee and Roma rights protection. We are writing to you to express our grave concerns regarding the current political debate surrounding the issue of asylum seekers from Serbia.

On 19 December 2009, Serbia has been granted a visa waiver for short-term travels to the Schengen area. We see this as an important step towards the normalisation of relations between Serbia and the EU as well as towards the realisation of the principle of freedom of movement.

This is why we are even more concerned by recent statements made by your government suggesting that you seek to limit this right to those citizens who provide sufficient guarantees that they will return to Serbia at the end of their travel and not seek asylum abroad.

Before the introduction of the visa waiver, Serbia was compelled to sign a readmission agreement with the EU in order to make sure that Serbian citizens, who would overstay the time during which they are entitled to stay in the EU, could be returned to Serbia easily.

We have taken from your statements that more than 4,000 Serbian citizens were returned to Serbia, on the basis of this as well as of bilateral readmission agreements, in 2010.

Readmission under these agreements frequently entails the application of accelerated procedures which do not involve the same procedural guarantees which are normally part of the refugee

status determination procedure. According to a recent evaluation of the readmission agreement, these types of procedures are most frequently used for the return of Serbian nationals. (EU Commission: Evaluation of readmission agreements, COM (2011) 76 final, 23 February 2011)

We have also learned that several asylum seekers have abandoned the procedure out of fear that they would be exposed to punishment upon their repatriation to Serbia.

Together with other organisations, we have criticised the EU as well as individual EU member states for making visa liberalisations conditional on the conclusion of readmission agreements. Indeed, as we consider that these agreements turn people into hostages of their state or transit country, instead of guaranteeing their right to return to their place of origin. This does not, however, imply to discharge those states, which are entering such agreements from their responsibilities towards their citizens:

Since the beginning of last year, representatives of the Serbian government have qualified asylum seekers from Serbia as “lažni azilante” or bogus asylum seekers.

This allegation of the allegedly unfounded character of the asylum applications has been essentially based on the fact, that the majority of the asylum seekers are members of ethnic minorities, primarily Roma, but also Albanians and Bosnjaks from Southern Serbia. Indeed, it has been suggested that members of these communities are leaving Serbia for purely economic reasons.

Your government has also alleged that the asylum seekers are being exploited by traffickers. Our experience however suggests that the liberalisation of the visa regime has contributed to considerably reduce the impact of traffickers, since it has become easier for people to leave Serbia.

We strongly oppose plans to impose stricter controls on travellers or tour operators departing from certain regions of Serbia identified as “producing most asylum seekers”, as this implies that people would be asked to justify their travels on the basis of their ethnic and/or geographic origin.

On the occasion of the Hederlezi celebration, a member of your government has even called on the Roma not to seek asylum abroad as this could damage Serbia’s national and state interests. Such statements, which build a dichotomy between Roma and the rest of the Serbian society, will only contribute to nurture the latent anti-Roma racism in Serbia and further alienate and isolate Roma.

We understand that your government is currently considering to introduce additional measures in order to prevent Serbian citizens from seeking asylum abroad. Accordingly, people who want to leave Serbia will be requested to provide detailed information about their travel plans and document their ability to cover their stay abroad. We have also learned that you are considering the introduction of a new law, which would make it possible to deprive rejected asylum seekers of their passport.

We consider that these plans are in breach with fundamental principles of international human rights law and will inevitably lead to an infringement of Serbia’s obligations as a state party to various international conventions treaties:

Indeed, article 13 of the Universal Declaration of Human Rights and article 2.2 of Protocol No. 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms guarantee the right of the individual “to leave any country, including his own, and return to his country.” The European Court of Human Rights has repeatedly condemned states, which have either withdrawn or refused to (re-)issue a passport to their citizens, in order to prevent them from travelling. Doing so, the Court has reasserted the principle which is enounced in section 3

of this article, according to which restrictions of this principle can only be accepted if they are foreseen in national law and if they “are necessary in a democratic society in the interests of national security or public safety”.

We are confident that the measure of withdrawing the passport to a person for the sole purpose that this person applied for asylum, which is also a fundamental right of every individual, would not stand this test.

This is why we are calling on you to abandon any plans which will result in a limitation of the freedom of movement of Serbian citizens. We believe that Serbia’s way into the European Union should not be paved with a major violation of the rights of its most vulnerable citizens. Instead, we are inviting you to work towards the improvement of the living conditions of Serbian citizens, including ethnic minorities, and towards the respect and realization of their rights, in order to make sure that no one is forced to leave his or her country.

We will continue to monitor the human rights situation in Serbia, including the treatment of refugees, IDPs and returnees, and to report to the relevant institutions.

Thank you very much for your attention!

Yours sincerely,

Chachipe a.s.b.l., Luxembourg

Project Roma Center e.V., Göttingen/Germany

Niedersächsischer Flüchtlingsrat e.V., Hildesheim/Germany

Förderverein Roma e.V., Frankfurt am Main/Germany

Rom e.V., Köln/Germany

Flüchtlingsrat Sachsen-Anhalt e.V./AKEFF, Magdeburg/Germany

Romano Drom, Magdeburg/Germany

Roma Union Grenzland e.V., Aachen/Germany

Centre de Médiation des Gens du Voyage et des Roms en Wallonie a.s.b.l., Namur/Belgium

Pro Asyl e.V., Frankfurt am Main/Germany

Romane Aglonipe e.V., Hannover/Germany

Flüchtlingsrat Hamburg e.V., Hamburg/Germany

Copies: Mr. Sándor Pintér, Hungarian Minister of Interior, Presidency of the Council of the European Union

Mr. Štefan Füle, EU Commissioner responsible for enlargement and European neighbourhood policy

Ms. Cecilia Malmström, EU Commissioner in charge of Home Affairs

Ms. Navanethem Pillay, UN High Commissioner for Human Rights

Ms. Gay McDougall, United Nations Independent Expert on Minority Issues

Mr. Thomas Hammarberg, Council of Europe Commissioner for Human Rights

Mr. Knut Vollebaek, High Commissioner on National Minorities