



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

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| Country: | Serbia |
| Title: | New laws concerning protection against discrimination for immigrants |
| Date: | 04 June 2018 |
| Expert: | Ivana Krstic |
| <u>Context</u> | |
| Issue at stake: | Recent legal anti-discrimination provisions |
| Ground of discrimination: | All/gender |
| Source: | Legislative development |
| Field: | Other |

Content

In March 2018, two laws were adopted concerning asylum and migration: The Law on Asylum and Temporary protection and the Law on Foreigners.

The *Law on Asylum and Temporary Protection*¹ contains several articles which introduces a more gender sensitive asylum procedure. Article 7 guarantees the principle of the prohibition of discrimination on any ground, and particularly on race, colour, sex, gender, gender identity, sexual orientation, nationality, social or similar status, birth, religion, political or other conviction, property, culture, language, age or disability. In addition, Article 16 introduces the principle of gender equality. This entails that an asylum seeker has the right to be examined by an officer of the Asylum Office of the same sex, including an interpreter of the same sex. This right also applies to body-searches, physical examinations and other actions in the asylum process that involve physical contact with an asylum seeker. In addition, female asylum seekers can submit their asylum application and can be examined separately from their male companions. The Law explicitly states that belonging to a social group, which is one of five recognized grounds for persecution, shall include groups based on common characteristics of sex, gender, gender identity and sexual orientation (Article 26, para. 2). The Law defines further acts of persecution and expressly states in Article 28, para. 2. sec. 1 that they include physical and psychological violence, including sexual and gender-based violence.

The *Law on Foreigners*² recognizes groups of vulnerable migrants, among which are pregnant women, victims of rape, victims of domestic violence and victims of human

¹ The Law on Asylum and Temporary Protection, "The Official Gazette of the Republic of Serbia", no. 24/2018 from 26 March 2018, enters into force on 3 June 2018.

² The Law on Foreigners, "The Official Gazette of the Republic of Serbia", no. 24/2018, from 26 March 2018, entered into force on 3 October 2018.

trafficking. The Law recognizes the right to temporary residence for victims of human trafficking (Article 62). If a person has been identified as a victim of human trafficking, the Center for the Protection of Victims of Human Trafficking shall assess the situation and the needs of the victim, and will inform him/her about the conditions for granting temporary residence and other rights. This status will help the victim to recover and to freely decide on further cooperation with the Centre, court, prosecutor's office or the police. During this period, no return decision can be made.

Internet link source: The *Law on the Asylum and Temporary Protection*, <https://www.paragraf.rs/propisi/zakon-o-azilu-i-privremenoj-zastiti.html>.

The Law on Foreigners,
<http://www.parlament.gov.rs/upload/archive/files/lat/pdf/zakoni/2018/3791-17%20lat.pdf>.