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**ANALYSIS OF THE SITUATION AND
RECOMMENDATIONS IN
RELATION TO THE SETTING UP OF
ASYLUM, MIGRATION AND INTEGRATION
POLICIES OF THE
SLOVAK REPUBLIC**

ABOUT THE *MIGRATION COMPASS* PROJECT

The Human Rights League has prepared the *Migration Compass* project with the aim of raising awareness of the situation of migrants and refugees in Slovakia and contributing to a better setting of policies that affect them.

Since 2015, the topic of migration has become one of the dominant topics of public debate in the European Union, as well as in Slovakia. However, general population, as well as many political and other leaders, were caught unprepared in relation to this topic. Until then, they paid almost no attention to it. Compared to other EU countries, Slovakia has a consistently very low numbers of refugees. The number of foreigners has only started to increase significantly in the last three years and is related to the favourable economic situation and labour shortages.

General population in Slovakia has very little personal experience with refugees or migrants and largely receives information from the media and social networks. This results in a large increase of conspiracies, hoaxes and xenophobia. That applies to both the general and professional public and leaders who should address the issue of migration at all levels of government.

Asylum, migration and integration policies are public policies that should be based on the same principles as other public policies at national and EU level. Its creation should be transparent and open to the public. However, it is a necessary precondition for the public to have a sufficient amount of reliable information and facts on the basis of which it can formulate legitimate requirements in relation to public leaders and thus influence the setting of policies in this area. The voice of those who are primarily affected by these policies - foreigners and refugees themselves should be part of the development of such policies.

We have therefore set the goal of starting processes that will lead to a better creation of Slovakia's asylum, migration and integration policy, including the preparation of these recommendations.

This document will serve the needs of the Human Rights League in advocacy activities in relation to improving the setting of migration, asylum and integration policies. The recommendations are based on the practical findings of the Human Rights League and the results of the *Migration Compass* project, but do not constitute an exhaustive analysis of these topics, as this should be the content of revised state documents whose revision is recommended.

This English text is shortened version of the document, containing just summary and overview of recommendations. Complete Analysis in Slovak language can be downloaded here:

https://www.hrl.sk/assets/files/obsah/199-Analyza_ju%CC%81n%202020.pdf

SUMMARY

This document is a result of long-term experience of lawyers of the Human Rights League, the analysis of the current developments and relevant documents setting out priorities, objectives and measures of the state in the field of asylum, migration and integration, recommendations of renowned institutions (such as FRA and Public Defender of Rights), and last but not least, findings of the *Migration Compass* project, especially outcomes of four round-tables with foreigners that we organized within this project, and in which we gathered opinions and recommendations of foreigners.

Analysis elaborates on and explains the statistical data, as a highly relevant source of information for the assessment of current trends, as to the numbers and countries of origin of foreigners arriving to Slovakia, purpose of their arrival and stay, type of residence permit granted. Interesting to note are the numbers and countries of origin of asylum seekers in recent years, as well as the numbers of recognised refugees and subsidiary protection holders. In the last 3 years there was a significant increase of third country nationals, mainly from Ukraine and Serbia, coming to Slovakia mainly as migrant workers. Important observation is also the fact that in 2018 for the first time the number of third country nationals exceeded the number of EU citizens residing in Slovakia. Data from the last years do confirm that Slovakia is one of the EU countries with the lowest numbers of asylum seekers, persons granted asylum and persons granted subsidiary protection. This trend was not influenced at all by the so called “refugee crisis”, which attracted the attention of general population, as well as of politicians and media in 2015 and after.

In relation to relevant documents of the state, the Analysis points out to the fact that *Migration Policy of the Slovak Republic from 2011*, as well as *Integration Policy of the Slovak Republic from 2014*, do need a revision and **reassessment of the priorities, objectives and measures, which the state is going to adopt in the fields of asylum, migration and integration**. These documents are not reflecting current situation, trends and needs.

The most important part of the document are recommendations, which are, with an exception of one general cross-sectional recommendation, divided according to policy which they relate to: Asylum and International Protection; Migration; Integration.

One general recommendation is the **creation of Immigration and Naturalisation Office**. We believe that the current institutional setting of the management of the topics of asylum, migration and integration does not cover the needs of Slovakia. The competencies are fragmented among various ministries and separated units of the Ministry of Interior of the Slovak Republic, which results in the absence of the holistic approach and vision with regards to the situation and needs of Slovakia in the fields of asylum, migration and integration. The state does not create and does not present relevant analysis in relation to migration and integration; there are no up-to-date priorities and visions (with the exception of the *Labour Mobility*

Strategy). Some responsible bodies do not implement the measures, which are stated in the basic state policies. There is also absence of the unified communication policy, which leads to excessive number of hoaxes and disinformation, which are not refuted by the responsible state authorities. We can conclude that migration and integration do not have a clear “master”.

We also emphasize that the creation of Immigration and Naturalisation Office is envisaged in the *Migration Policy of the Slovak Republic (2011)*, however this measure has not been implemented yet. Based on the *Programme Statement of the Slovak Government* from 30 April 2020, the Government will consider the possibility of centralisation of these agendas in one place, which we think is a solid basis for the formation of Immigration and Naturalisation Office.

In the field of **asylum and international protection**, taking into consideration consistently low numbers of asylum seekers, we recommend that the **Migration Office is transformed into Asylum Department** as part of the new Immigration and Naturalisation Office. Despite the low number of asylum seekers in recent years, we have seen an increase in the severity of cases. For the **vulnerable asylum seekers** with several special needs, especially for the victims of violence, traumatised persons, LGBTI, etc., we recommend the creation of separate protected housing. Given the persistently low occupancy of three asylum facilities in recent years and the related inefficiency of their year-round operation, we propose to **use part of these unused capacities** for housing of people on alternative to detention and those that cannot be deported, are in material need and for objective reasons are unable to leave the territory of Slovakia, whilst their detention is not effective (especially **families and other vulnerable persons**).

In the field of international protection Slovak Republic should fulfil its commitment in relation to the protection of stateless people and should **introduce the statelessness determination procedure**. We also recommend the creation of material support for those who are in such procedure. Unused capacities of asylum facilities could be also used for housing the applicants waiting for the outcome of such a procedure.

We also propose to create a **State integration programme for persons with international protection**. The creation of such programme was imposed by the *Resolution of the Government of the Slovak Republic no. 568 of 21 October 2015*, however, this has not yet been established, resp. has not yet been approved at government level.

We also consider it important to **improve general public awareness of international protection issues**, to refute hoaxes and misinformation, to **seek effective opportunities to engage in European solidarity programmes in the field of relocation**, and to **set up a resettlement program for beneficiaries of international protection**.

In the field of migration, we consider it important to **develop and adopt a new Migration Policy of the Slovak Republic**, in a participatory manner with the participation of the professional public. We emphasize the need for **regular evaluation of the situation in the field of migration**, the identification of trends and the setting of measures according to real needs. The Slovak Republic should regularly **map the communities of foreigners** in its territory in order to better understand their needs and challenges. **Knowing the situation in the area of irregular (undocumented) migration** will make it possible to set up measures in this area more effectively. We also recommend creating conditions for the **effective application of the so-called alternatives to detention**, and the introduction of a system of effective and **independent monitoring of forced returns**.

Finally, **in the field of integration** at the national level, we negatively perceive the absence of comprehensive, clear and reliable information for foreigners about their rights and obligations, residence status, etc. in several language versions, provided by state institutions. This need is also regularly reported by representatives of various foreign communities in Slovakia. We propose the establishment of a **national information platform for foreigners in various language versions, which will serve as a key and reliable source of information** and orientation for foreigners.

Given the significant increase in arriving and settling third-country nationals (TCNs), especially from Ukraine and Serbia, in the last five years (increase from 35,261 to 85,827 TCNs), who come mainly for work and earnings, we consider it important that the currently prepared update of the Slovak Integration Policy dedicates **special attention to the issue of working conditions of migrant workers**, the possible abuse of their vulnerable situation by employers and various intermediaries or agencies, and **labour exploitation**.

Then, our recommendations in the field of integration focus mainly on **greater involvement of local governments /cities and municipalities/ and support for local activities** in favour of the integration of foreigners. Local actors are best aware of and familiar with the situation in their territory. In addition, as our experience proves, the conditions in individual municipalities can vary greatly in terms of the composition and reason for the settlement of foreigners. The situation is different in Bratislava, different in Trnava, different in Banská Bystrica, Žilina, Nitra, Košice or Prešov. Different local contexts require different solutions. Municipalities should therefore have **stronger state support** in the area of integration of foreigners.

Analysis contains numerous recommendations targeting local governments. Among other things, we propose stronger support for promoting awareness of foreigners, organising socio-cultural, civic and legal orientation courses for foreigners, improving awareness of active and passive suffrage, active trade union involvement, strengthening the role of schools in integrating foreigners, actively involving foreigners in local policy-making and implementation of local policies

and measures, the adoption of measures to prevent hatred and intolerance against Muslims, refugees and migrants, as well as to improve the awareness of foreigners about hate crimes.

Finally, the analysis also contains **specific recommendations in relation to citizenship, unaccompanied minors, and LGBTI foreigners.**

OVERVIEW OF RECOMMENDATIONS

General recommendation:

- Creation of the Immigration and Naturalisation Office. We suggest that it should perform these tasks:
 - collection, processing and evaluation of comprehensive data on migration and integration,
 - analytical and conceptual activities,
 - elaboration of the Migration Policy of the Slovak Republic, Integration Policy of the Slovak Republic and supervision over their implementation,
 - conducting proceedings under the Act on the Residence of Foreigners, with the exception of administrative expulsion proceedings and detention proceedings, under the Asylum Act and the Citizenship Act,
 - communication, making recommendations and proposals for other public authorities, coordination activities, helping local governments to set up integration,
 - main coordinator in the field of the integration of foreigners, while measures on the labour market in relation to foreigners would be prepared in close cooperation with the Ministry of Labour, Social Affairs and Family of the Slovak Republic.

Recommendations in the field of asylum and international protection:

- Transformation of the Migration Office to Asylum Department of the Ministry of Interior of the Slovak Republic, and once the Immigration and Naturalisation Office is created to Asylum Department of this Office;
- Use of unused capacities of asylum facilities (reception and accommodation camps) for protected housing of vulnerable asylum seekers with special needs, especially for the victims of violence, traumatised persons, LGBTI, and possibly for accommodation of other vulnerable groups of migrants, such as families and vulnerable foreigners on alternative to detention, and/ or stateless persons;
- Improve the level of interpretation and translation in asylum and other proceedings with foreigners, esp.
 - mapping the use of *ad hoc* interpreters by public authorities, it means those that are not registered with the Ministry of Justice of the Slovak Republic as official interpreters;

- introduction of a list of "deficient languages" for which we have no or insufficient interpreters and translators;
- the state should also take on the burden of bearing the costs of ensuring that a sufficient list of quality interpreters is available to public authorities;
 - develop a list of rights and obligations and a code of ethics for *ad hoc* interpreters;
 - the obligation of *ad hoc* interpreters to complete a professional minimum;
 - elaboration of guidelines for *ad hoc* interpreters on their role in the administrative procedures;
- specific sanctions for *ad hoc* interpreters in case of breach of the interpretation promise;
- the inclusion of community interpreters in the Act on Experts, Interpreters and Translators and to adjust their status and scope of rights and obligations at the level of the Act;
- to simplify instructions on rights and obligations used in proceedings with foreigners;
- use appropriate methods to verify understanding of the question asked, explanation or instruction in the proceedings with foreigners;
- make video or audio recordings for possible back-checking of interpretation in administrative procedures with foreigners;
- Create a State integration program for persons with international protection;
- Improve public awareness on the topic of asylum and international protection;
- Seek effective opportunities to participate in European solidarity programmes in the field of relocation and actively participate in the building of a Common European Asylum System, in particular with a view to the debate on the European Pact on Migration and Asylum;
- Create a resettlement programme for beneficiaries of international protection.

Recommendations in the field of migration:

- Elaboration and adoption of a new Migration Policy of the Slovak Republic;
- Regular evaluation of the migration situation, identification of trends, setting measures according to real needs;
- Mapping of foreign communities in the Slovak Republic, better knowledge of their needs and challenges;
- Knowledge of the situation in the field of irregular (undocumented) migration, in order to better set up policies and measures in this field;
- Creation of conditions for effective application of alternatives to detention, incl. by allocating housing to families with children and other vulnerable foreigners on alternative to detention;
- Introduction of a procedure for determining the status of a foreigner as a stateless person;

- Procedural guarantees for stateless persons and remission of administrative fees, esp. to withdraw the reservation to Art. 27 of the Convention on the Legal Status of Stateless Persons; releasing stateless persons from the obligation to pay administrative fees for submitting application for permanent residence and for granting of state citizenship of the Slovak Republic; to enshrine in the Act on the Residence of Foreigners clear procedural guarantees for stateless persons in the procedure on granting permanent residence, incl. issuance of the decision and possibility to appeal it; burden of proof shared between the applicant for residence permit and administrative body - police; access of stateless persons to integration assistance similarly to refugees;
- Introduction of effective and independent system of the monitoring of forced returns; we support efforts of the Office of the Public Defender of Rights to become this independent body for the monitoring of forced returns.

Recommendations in the field of integration:

- Establishment of a national information platform for foreigners in various language versions, which will serve as a key and reliable source of information and orientation of foreigners about their rights and obligations and procedures, how to deal with information verified at the level of central state administration (Bureau of Labour, Social Affairs and Family, Bureau of Border and Foreigners' Police, etc.);
- It is important that the updated Integration Policy includes specific measures to protect the rights of migrant workers, and to improve their awareness of the rights and institutions to which they can turn for assistance, support options, how to claim compensation for wages owed and complaints about violation of labour rights;
- Carry out education and awareness-raising in relation to the responsible state authorities, in particular the labour inspectorate, the foreigner police and the financial administration, to ensure the protection of migrants' rights when investigating cases of illegal employment and to be able to identify and investigate cases of labour exploitation;
- Consider adopting a separate document/strategy in relation to the protection of migrant workers against exploitation;
- In the case of integration, it is necessary to shift the emphasis to the local/regional level;
- In the Act on Municipal Establishment and the Act on Self-Governing Regions, enshrine that foreigners with a temporary residence are also residents of local self-government who have the right to participate in the exercise of self-government, if they pay income tax in the SR, or have in the SR the so-called centre of interest;
- Legislatively enshrine the concept of "centre of interest" through the tax domicile or place where the predominant personal interests of the foreigner are concentrated (children go to school, own or rent real estate here, do

business here) and thus create space for the centre of interest to be taken into account as a decisive criterion for self-government in public policy-making;

- When redistributing public resources to finance local governments, we propose to take into account the number of foreigners with temporary residence who are payers of income tax in Slovakia according to their tax domicile, and the number of foreigners with temporary residence who represent socio-demographic burden for the municipality (e.g. compulsory school children and the elderly);
- In order to facilitate the provision of social services to foreigners living in the Slovak Republic, it will be necessary for the Act on Social Services to recognize interpretation into various languages as a social service for the purposes of planning the provision of social services to foreigners;
- Institutionalize the profession of cultural mediator so that it is entered in the catalogue of the National System of Occupations and the National System of Qualifications, while legislating the framework and conditions for its performance, control, continuing education and remuneration;
- In cooperation with the Ministry of Justice of the Slovak Republic, to institutionalise community interpreting, to legislatively regulate the conditions for its performance, control, continuing education and remuneration;
- Thorough mapping of the situation of foreigners living in the territory, it means knowing the numbers, countries of origin and the predominant reasons for the arrival of foreigners in the territory of the self-government, on the basis of which the self-government will be able to develop and adapt its own integration strategy;
- Create a system in which local governments will have timely clear statistical information on foreigners who come to their territory, and will be able to work with this information;
- Timely development of local integration strategies in those cities and municipalities where foreigners live, which will be developed in a participatory way, including with the involvement of foreigners themselves;
- Educating local authorities on how to work with foreigners in their territory ("outreach"), how to involve them in local activities, how to communicate with them, and how to use community interpreting and cultural mediation services, including the allocation of funds to cover these services.
- To create at the local government level personnel capacity for a contact point for foreigners living in the city/municipality, which understands the stay and integration of foreigners in the Slovak Republic, as well as for community interpreting and intercultural mediation, including planning public resources and applying for project funding for this purpose;
- Encourage the establishment of initial welcome packs with important information on the functioning of the municipality and other local authorities and institutions, on the rights and obligations of the population,

including websites, leaflets and other information campaigns; in several language versions;

- Improving the process of learning the Slovak language, incl. organising Slovak language courses by the local municipality, and the use of libraries, schools and school facilities, as well as other cultural institutions in their administration in the process of integration of foreigners;
- Organising socio-cultural, civic and legal orientation courses for foreigners at the local level;
- Improving awareness of active and passive suffrage at local and regional level;
- Improving the availability of counselling services at local level, in particular as regards legal status, social affairs, family affairs, employment, recognition of qualifications, etc.;
- Increase the active involvement of trade unions, and to support the activities of employers to help the integration of employed foreigners and their families;
- Strengthen the role of schools in the integration of foreigners, incl. schools should also use their potential for integration and building the school community by involving parents of foreign children, especially with emphasis on mothers who are unable to work in Slovakia due to family reunification and often suffer from loneliness; and developing the multicultural skills of educators in order to avoid misunderstandings;
- Ensure access to integration measures for EU citizens as well;
- Actively involve foreigners in the creation and implementation of local policies and measures;
- To improve the awareness of foreigners living in the Slovak Republic about hate crimes, reasons for discrimination and violence against women and girls;
- Take measures to prevent hatred and intolerance against Muslims, refugees and migrants at the local level;
- Create intercultural plans and adopt comprehensive intercultural strategies that will help cities to manage diversity positively and reap the benefits of diversity, promote mutual coexistence in tolerance and mutual dialogue of the majority population with people from other cultures; intercultural plans should include mechanisms and strategies to break down prejudices and stereotypes in cities;
- Create resources and capacities to provide support and assistance to victims of hate crimes, motivate them to report these crimes, strengthen their trust in institutions and prevent their victimisation;
- Introduction of standards for verification of Slovak language proficiency and general knowledge of the Slovak Republic, incl. determining the level of command of the Slovak language required to obtain citizenship according to the Common European Framework of Reference, including the possibility of proving this level in another way (for example, proving a certificate of state examination in the Slovak language, etc.); preparation and nationwide

unification of the syllabus and scope of the examination within the procedure for granting citizenship at the level of central state bodies; organisation of courses aimed at passing an examination in the framework of citizenship proceedings; introduction and availability of standardised tests in the procedure for granting citizenship; execution of the Slovak language proficiency test by professionally qualified persons;

- Consider placing unaccompanied minors in centres for children and families in larger cities due to infrastructure, availability of services and proximity to the community, and consider placing children directly in families, which could include families of foreigners from the community;
- Adopt such a change in legislation that will not discriminate against foreigners applying for residence in the Slovak Republic for the purpose of family reunification, on the basis of their sexual orientation.

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The Human Rights League is solely responsible for the content of this document.

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