



# Common Western Balkan Migration Policy: Borders and Returns

## Regional Policy Paper II

Editor:  
Jelena Unijat

Group 484  
Skopje, October 2020



BALKAN  
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Netherlands



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# List of Abbreviations

AC	asylum centre
AHC	Albanian Helsinki Committee
AVR	assisted voluntary returns
BAM	Bosnian Mark
BCHR	Belgrade Centre for Human Rights
BiH	Bosnia and Herzegovina
BIRN	Balkan Investigative Reporting Network
BRMC	Balkan Refugee and Migration Council
CA	Civic Alliance
CoI	Country of Origin Information
CPT	Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRP/K	Civil Rights Program Kosovo*
CSO	Civil Society Organisation
DCAM	Department for Citizenship Asylum and Migration
DRC	Danish Refugee Council
DMF	Department for Migration and Foreigners
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECRE	European Council on Refugees and Exiles
EU	European Union
FRONTEX	European Border and Coast Guard Agency
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
IAP BP	International Airport of Prishtina Border Police
IBM	Integrated Border Management
ID	identification document
IOM	International Organization for Migration
LoF	Law on Foreigners
MARRI	Migration, Asylum and Refugees Regional Initiative
MIA	Ministry of Internal Affairs
MLSP	Ministry of Labour and Social Policy
MYLA	Macedonian Young Lawyers Association
Mol	Ministry of Interior
MoS of BiH	Ministry of Security of BiH
NFI	non-food items
NPM	National Preventive Mechanism
NRM	National Referral Mechanism
RC	reception centre
RS	Republic of Serbia
SFA	Service for Foreigners' Affairs
TC	transit centre
TRC	temporary reception centre
UAM	unaccompanied minor
USC	Una-Sana Canton
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees
WB	Western Balkans

# Foreword

This is the second Regional Policy Paper of the Balkan Refugee and Migration Council (BRMC). Its main purpose is to present to the general and professional public, as well as to stakeholders, the migration situation in the Western Balkans (WB) region during 2019 and early 2020. In the first part of the document, the main points are updates of the national legal, policy, and institutional frameworks, as well as an overview of regional cooperation, the European integration process, and cooperation with the European Border and Coast Guard Agency (Frontex). Activities of various international mechanisms in the region and their reports related to the issues of border management and migration are also presented. In the second part, the main focus is on the practice and particular case studies in WB countries. The final section provides recommendations for further improvements in legislation and treatment, covering related national and regional challenges. In addition to old topics, one section of this Policy Paper is dedicated to COVID-19 related state emergency measures and their impact on migrants.

As in the first BRMC Policy Paper, data in this one were collected at the national level, since local civil society organisations, BRMC members, have a comprehensive insight into all migration-related issues in their countries. All BRMC members made a valuable contribution in collecting, analysing, and updating data on the national legal and strategic framework and practice, as well as in collecting certain statistics for 2019 and for the first half of 2020. In line with the provided national data, Group 484, as a coordinating organisation in the project implementation, made general conclusions and remarks in the regional context. Unlike the first BRMC Policy Paper, this one is more national-oriented. Since our aim is to present all differences and specificities of the national legislative, policy and institutional frameworks, as well as national practices, some general remarks and common issues are presented at the beginning of the chapters, followed by an overview of topics and situation analysis given by countries. The analysis of the national policies and practices helped us draw regional conclusions and make regional recommendations.

BRMC members owe immense gratitude to the Ministry of Foreign Affairs of the Kingdom of the Netherlands for supporting the development of this Regional Policy Paper, as well as the entire three-year implementation of the project *Balkan Refugee and Migration Council – Making a Pathway for a Common Western Balkans Migration Policy*.

# 1. Part I: Desk Analysis

## 1.1. Introduction

The WB region has continued to be an active transit route for irregular migrants trying to reach developed European countries, and the number of migrants in 2019 was increased compared to 2018 data. Migrants cross borders illegally, mainly using alternative methods and routes, as well as smuggling services of organised criminal groups. A significant number of newly arrived migrants stayed in the WB countries for a relatively short time and within a few days transited from entry border points to exit border points.

Due to the increased number of new arrivals of irregular migrants in 2019, the WB region was in the focus of different international and European bodies and mechanisms that conducted a lot of monitoring visits and other activities related to national and regional migration policies. Regional cooperation activities among WB countries were also intensified. As the beginning of 2020 was marked by the refugee crisis and incidents on the Greek-Turkish border, these events did not have a significant impact on migratory movements in the WB region. Unlike the refugee crisis, the consequences of the global COVID-19 pandemic strongly affected irregular migration in this region and strict measures against migrants were introduced in March. After the first pandemic wave, the restrictive measures were mitigated but have still stayed in force to a certain extent.

## 1.2. European Integration and Regional Cooperation

Despite a lot of positive cooperation activities within the WB region, the Euro integration process has slowed considerably. At the end of October 2019, accession negotiations with Albania and North Macedonia were postponed,<sup>1</sup> and the need to change the enlargement methodology was emphasised, which also affected the candidate countries (Serbia and Montenegro). Serbia opened two more chapters<sup>2</sup> in 2019, and now has 18 open chapters, two of which are provisionally closed,<sup>3</sup> while Montenegro opened the last chapter in June 2020.<sup>4</sup> In March 2019, the European Parliament supported Commission's proposal for visa liberalisation for Kosovo<sup>\*5</sup> in the first read, and the proposal is pending in the Council. In May 2019, the European Commission issued an Opinion on Bosnia and Herzegovina's application for EU membership<sup>6</sup> and concluded that Bosnia and Herzegovina (BiH) has not yet sufficiently met all the required criteria.<sup>7</sup>

In March 2020, the Commission updated its progress reports for Albania and North Macedonia and noted the progress of both countries. The Council adopted conclusions on Enlargement and Stabilisation and Association Process and decided to open accession negotiations with North Macedonia and Albania.<sup>8</sup>

On 6 May 2020, the leaders of the EU and its member states, in consultation with WB leaders, in the Zagreb Declaration, concluded that cooperation in addressing migration challenges, including combating migrant smuggling has demonstrated its value and will further develop and profit from tools such as cooperation with Frontex, EASO, and Europol. The remaining Frontex status agreements should be concluded without delay and the EU will continue to support the improvement of reception capacities in the WB.<sup>9</sup>

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1 Free Europe: EU without consent about accession negotiations with Skopje and Tirana, available at: <https://www.slobodnaevropa.org/a/severna-makedonija-albanija-eu/30221498.html>

2 Chapter 9 related to financial services and chapter 4 related to free movement of capital.

3 Available at: <https://europeanwesternbalkans.rs/otvoreno-poglavlje-4-koji-zadaci-sada-cekaju-srbiju/>

4 Available at: <https://www.danas.rs/svet/crna-gora-otvorila-poslednje-poglavlje/>

5 \* This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

6 Available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-bosnia-and-herzegovina-opinion.pdf>

7 Criteria related to the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

8 Additional conditions are placed on Albania, unlike North Macedonia, with regard to the rule of law and anti-corruption measures, tackling the phenomenon of false asylum requests and applications, as well as ensuring repatriations of irregular migrants, unaccompanied minors stranded in the EU Member States.

9 Paragraph 16 of Zagreb Declaration, Available at: [https://www.mei.gov.rs/upload/documents/eu\\_dokumenta/zagreb-declaration-en-06052020.pdf](https://www.mei.gov.rs/upload/documents/eu_dokumenta/zagreb-declaration-en-06052020.pdf)

Western Balkans 6 (WB6) participated in issuing a Joint Statement during the Ministerial Conference held in Vienna on "Migration Challenges along the Eastern Mediterranean/WB Route".<sup>10</sup> In paragraph 5 of the Joint Statement, it is agreed to strengthen coordination of measures to reinforce operational cooperation and logistical support in the area of border protection and border management, such as the secondment of officers and the exchange of best practices and the organisation of joint patrols. In paragraph 7 it is agreed to intensify cooperation and provide concrete assistance on return and readmission policies and return operations.

The second half of 2019 was marked with intensive activities of regional cooperation in the area of border control and border crossing. In July 2019, the Republic of Serbia (RS) and North Macedonia signed the Agreement on the Establishment of Joint Controls at the Border Crossing for International Road Transport,<sup>11</sup> and the joint border crossing officially started operating on 26 August.<sup>12</sup> After that, on 10 October RS, North Macedonia and Albania signed the Declaration on Establishing Free Flow of People, Goods, Services and Capital in the WB, the so-called "Mini Schengen". In the Declaration, the states express readiness to strengthen regional cooperation, in order to increase economic growth, reduce unemployment, overcome illegal migration, fight international organised crime and improve social care, as well as increase trade, investment and employment in the territory of WB6.<sup>13</sup> The idea of this Declaration is also to enable citizens of these countries to cross border crossings only with ID<sup>14</sup>, as well as to introduce joint working permits that will allow people to work in all countries without additional procedures. However, not much has changed since the initial idea, and Montenegro, Kosovo\* and BiH have not yet signed the Declaration.

Montenegro has concluded the Agreement between the Government of Montenegro and the Government of the Republic of Bulgaria on Police Cooperation<sup>15</sup>, which, among other things, provides that the contracting parties will exchange information, expertise, and data arising from activities in the fight against human trafficking and illegal migration. The contracting parties, in accordance with their national legislation, will cooperate in the prevention and detection of illegal migration-illegal transfer of persons across the state border, illegal stay of persons. The Agreement on Cooperation between the Government of Montenegro and the Government of Kosovo\* was concluded in the context of accession to the European Union,<sup>16</sup> whereby the contracting parties agree to intensify cooperation in a view of exchange of information on asylum policy, migration, readmission, fight against organised crime, human trafficking, visa regime, smuggling, illegal drug and arms trafficking, fight against international terrorism, and other issues, as well as the adoption of European standards in these areas.

The North Macedonian police cooperated with foreign police officers present in the country under bilateral agreements. EU member states deployed their police officers at the request of the Republic North Macedonia and on the basis of concluded bilateral agreements.<sup>17</sup> Together with the North Macedonian police, they performed regular patrolling activities alongside border areas and villages and played a crucial role in preventing and intercepting illegal migrants and smugglers in the country.

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10 Ministries of Interior and other representatives of the EU and the WB states produced a statement emphasising the need to maintain strict control measures along the 'Balkan Route' and at the EU's south-eastern borders. Joint Statement is available at: <https://www.statewatch.org/news/2019/jun/eu-western-balkans-ministerial-conference-migration-statement-3-5-19.pdf>

11 Law on Ratification of the Agreement between the Government of Serbia and the Government of North Macedonia on the Establishment of Joint Controls at the Border Crossing for International Road Transport Preševo-Tabanovce ("Official Gazette of the RS – International Treaties", No. 8/2019).

12 Free Europe – Zaeu and Brnabić: Common border crossing is crown of friendship, available at: <https://www.slobodnaevropa.org/a/odnosi-severna-makedonija-srbija/30125106.html>

13 Serbian radio – television (RTS): What Mini Schengen brings to the citizens, available at: <http://www.rts.rs/page/stories/sr/story/13/ekonomija/3692685/sta-gradjanima-donosi-mali-sengen.html>

14 This is not a novelty in the relations between Serbia and North Macedonia, because these countries in 2011 signed the agreement that enables their citizens to cross borders only with biometric ID. Source: RTS <http://www.rts.rs/page/stories/sr/story/125/drustvo/965784/u-makedoniju-bez-pasosa.html>

15 Decision on publishing Agreement between the Government of Montenegro and the Government of the Republic Bulgaria on Police Cooperation – ("Official Gazette of Montenegro – International Treaties", No. 08/19,09 October 2019, <http://www.sluzbenilist.me/pregled-dokumenta/?id={3E5E7B7A-5D64-49F1-9344-34BA244EC5B8}>)

16 Official Gazette of Montenegro – International Treaties", no. 005/19 from 17 June 2019, <http://www.sluzbenilist.me/pregled-dokumenta-2/?id={F3351872-F767-452A-BBB2-98630BAD7E13}>

17 The annual report of the Mol of the Republic of North Macedonia for 2019 stresses that as part of the joint operations to strengthen the surveillance on the southern border of the Republic of Northern Macedonia, throughout 2019, 1550 police officers were deployed from eight (8) countries Croatia, Serbia, Slovenia, Austria, Czech Republic, Poland, Hungary and Slovakia to participate in joint activities with the Macedonian police on the prevention of illegal border crossing of migrants from Greece. The report is available at: <https://mvr.gov.mk/Upload/Editor/Upload/%D0%9E%D0%9A%D0%A0%D0%90/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD%20%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98%202019.pdf>

### 1.3. Cooperation with the European Border and Coast Guard Agency (Frontex)

While in the past all WB countries concluded working arrangements with Frontex, until 2019 the only WB country that signed a status agreement with Frontex was Albania.<sup>18</sup> The agreement between Frontex and Albania entered into force on 1 May 2019, leading to the launch of the first fully-fledged Frontex joint operation on the territory of a non-EU country – Albania, which is considered a milestone in EU-WB cooperation. The aim of this joint operation is to implement coordinated operational activities at the land border between Albania and Greece, in the territory of the Republic of Albania, in order to control illegal immigration flows, to tackle cross-border crime and potential terrorist threats.<sup>19</sup>

Frontex received the full support of the Albanian authorities in setting up a coordination structure and creating good working conditions.<sup>20</sup> Frontex team members deployed at the south border of Albania were of different profiles, including: border surveillance officers, debriefing experts, screening experts, Frontex support officers, as well as first-line officers, advanced level document experts, stolen vehicles detection officers, and interpreters. These teams have been directly involved in the day-to-day performance of border control duties with concrete operational results. In addition, Frontex has organised or coordinated return operations of Albanian citizens by charter and scheduled flights where its role is to provide technical assistance and operational coordination.<sup>21</sup> Moreover, the Agency is expected to launch the second<sup>22</sup> Frontex Liaison Officer in the WB to Albania during 2020 with a regional mandate in Albania, Kosovo\*, and North Macedonia.

The management of mixed migration flows and the fight against cross-border crime have been further enhanced by the implementation of this operation in Albania, where the western corridor into Albania reported growing detections after the start of the Frontex joint operation in May 2019.<sup>23</sup> Most notably, since the beginning of the joint operation, most irregular migrants' interceptions have occurred near the Albanian-Greece border. In the past years, the majority of interceptions have occurred in the interior of the country, mainly in the capital, Tirana. Despite limitations related to the outbreak of COVID-19, 20 EU Member States participated in the joint operation and over 12,000 irregular migrants were apprehended by June 2020.<sup>24</sup>

In 2019, Serbia<sup>25</sup> and Montenegro<sup>26</sup> also concluded status agreements with Frontex and they waited for the ratification and entry into force of the agreement (it enters into force the first day of the second month following the date on which the parties have notified each other of the completion of the internal legal procedures). In May 2020, the EU Council ratified these agreements. In Montenegro, the agreement entered into force on 1 July 2020<sup>27</sup> and on 15 July Frontex launched the first operation in this country.<sup>28</sup> Initially, Frontex deployed several officers to support Montenegro's border guards at the border with Croatia and announced that it would expand its presence to border control activities at sea, including search and rescue support. Serbia has not yet ratified the agreement.

North Macedonia initialled a status agreement with Frontex that will allow teams from Frontex to be deployed in North Macedonia. The status of the agreement remained unchanged throughout 2019. Despite the status quo, Frontex police officers are present at the border on the North Macedonian side as part of their regular mandate. The finalisation of the status agreement with BiH is still pending.

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18 In more detail: Unijat Jelena (ed.): Common Western Balkan Migration Policy: Borders and Returns – BRMC Regional Policy Paper, Group 484, Sarajevo, p.p. 20-21.

19 Available at: [https://frontex.europa.eu/assets/Publications/General/frontex\\_inbrief\\_website\\_002.pdf](https://frontex.europa.eu/assets/Publications/General/frontex_inbrief_website_002.pdf)

20 Available at: <https://ata.gov.al/2020/02/08/modernizimi-i-logjistikes-be-6-milione-euro-per-policine-e-shtetit-dhe-kufirit/>

21 Albanian citizens were among the top ten most reported nationalities for return decisions in 2019. Overall, in 2019, around 71,100 returns were reportedly carried out with the support of Member States and/or Frontex, and these mainly involved nationals of Albania, Morocco and Algeria.

22 The first Frontex Liaison Officer in WB was deployed in Belgrade.

23 Available at: [https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Risk\\_Analysis/Annual\\_Risk\\_Analysis\\_2020.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Annual_Risk_Analysis_2020.pdf)

24 Commission staff working document, Third report under the visa suspension mechanism, Brussels, 10.7.2020, p. 7., available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/20200710\\_swd-2020-132-report\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/20200710_swd-2020-132-report_en.pdf)

25 Signed on 19 November 2019, Available at: <https://www.consilium.europa.eu/en/press/press-releases/2019/11/19/border-management-eu-signs-agreement-with-serbia-on-european-border-and-coast-guard-cooperation/>

26 Signed on 7 October 2019, Available at: <https://www.consilium.europa.eu/en/press/press-releases/2019/10/07/border-management-eu-signs-agreement-with-montenegro-on-european-border-and-coast-guard-cooperation/>

27 Available at: <http://rs.n1info.com/Vesti/a603780/EU-potvrdila-sporazume-sa-Srbijom-i-Crnom-Gorom-o-granicnoj-saradnji.html>

28 Available at: <https://frontex.europa.eu/media-centre/news-release/frontex-launches-second-operation-outside-eu-1UZt3Q>

## 1.4. Activities of International Mechanisms in Western Balkan Countries

During 2019, there were a lot of activities of international mechanisms and bodies in the area of migration in the WB region, mostly in BiH. In Serbia and Montenegro, the focus was on gender issues. The Group on Experts on Action against Violence against Women and Domestic Violence (GREVIO) visited Serbia<sup>29</sup> and the UN Special Rapporteur on trafficking in persons, especially women and children visited Montenegro.<sup>30</sup> The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) also had some activities in the region.

Due to the complex situation and the number of migrants in BiH, during 2019 BiH was visited by the Special Rapporteur on the human rights of migrants<sup>31</sup>, the Commissioner for Human Rights<sup>32</sup>, as well as representatives of the European Commission.<sup>33</sup> After the visits, all representatives of the international community strongly appealed to the BiH authorities to close the informal camp Vučjak near Bihać (at the time of the visit, this had not been done). At the beginning of 2020, the conditions for migrants were still unsatisfied, as well as strong migratory pressure on BiH with 80 migrants entering the country every day.<sup>34</sup>

The UN Special Rapporteur on the human rights of migrants visited BiH in the period 24 September to 1 October 2019. At the end of his visit, it was emphasised<sup>35</sup> that the increased flow of migrants revealed significant institutional and coordination weaknesses of relevant authorities at different levels of BiH. The state-level Migration Coordination Body (established in May 2018) has not yet adopted a comprehensive strategy that would provide a durable solution to the current migrant situation. One of his recommendations was that the Ministry of Security of BiH (MoS of BiH) should set up outreach teams to identify and direct asylum seekers to border areas and within the country, including Republika Srpska. He urged the government to stop forcibly escorting migrants to Vučjak and to urgently identify an alternative location for accommodation, giving priority to minors. The Special Rapporteur also expressed his concern over violent pushbacks of migrants and asylum seekers by the Croatian border police into the territory of BiH. Later, in the Report,<sup>36</sup> he emphasised that BiH can benefit from meaningful regional consultations with neighbouring countries to seek constructive regional solutions and assess the profiles of migrants in the region, as well as provide a platform to intensify regional efforts in combating human trafficking, smuggling networks and other organised criminal activities.

During a press conference concluding the 4-day visit to BiH, the Council of Europe Commissioner for Human Rights<sup>37</sup> call on the state of BiH to urgently relocate migrants from Vučjak and provide them with decent accommodation.<sup>38</sup> Equally, she expressed her concern about the situation of migrants and asylum seekers sleeping rough or in abandoned buildings in Bihać and elsewhere in the country. The Commissioner held that there is a need for more efficient registration of migrants and referral to state agencies, but also for better coordination among relevant stakeholders at all levels. The Commissioner also stressed that the responsibility for hosting migrants must be shared equally between the entities. Lastly, the Commissioner expressed concern about frequent reports of violent pushbacks by the Croatian border police. The Council of Europe Special Representative of the Secretary-General on Migration and Refugees published the Report on Fact-Finding Mission to BiH and to Croatia on 24-27 July and 26-30 November 2018.<sup>39</sup>

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29 Report GREVIO/inf (2019)20. One section of the Report is dedicated to migrant and asylum seekers women. GREVIO recommended to the Serbian authorities to ensure that asylum seekers and migrants transiting through Serbia are, in practice, informed of their rights and the legal procedures available to them, as well as to strengthen the system of protection and support from violence against women available to women asylum seekers and to develop conditions conducive to the reporting of incidents of violence against women in reception facilities.

30 Special Rapporteur visited the Centre for the Reception of Foreigners requesting the international protection in Spuž, Shelter for Foreigners in Spuž and alternative accommodation in Konik. Information was published on: <https://www.vijesti.me/vijesti/drustvo/trgovina-ljudima-u-crnoj-gori-masovnja-nego-sto-to-pokazuju-zvanicni-podaci>

31 Blic: Morales: BiH to assume responsibility for migration management, available at: <https://www.blic.rs/vesti/republika-srpska/ispostovati-prava-izbeglica-morales-bih-da-preuzme-odgovornost-za-upravljanje/qp7d9gs>

32 Danas: Mijatović: It is shame for BiH, available at: <https://www.danas.rs/svet/mijatovic-sramota-za-bih/>

33 Free Europe: EU officials asked for closing of Vučjak, available at: <https://www.slobodnaevropa.org/a/30271219.html> and Tanjug: EC in BiH: Closing migrant camp Vucjak is a priority, available at: <http://www.tanjug.rs/full-view.aspx?izb=520121>

34 B92: BiH critical for migrant crisis – possible escalation, Available at: [https://www.b92.net/info/vesti/index.php?yyyy=2020&mm=02&dd=17&nav\\_category=167&nav\\_id=1655691](https://www.b92.net/info/vesti/index.php?yyyy=2020&mm=02&dd=17&nav_category=167&nav_id=1655691)

35 End of visit statement, Special UN Rapporteur on migration, available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25088&LangID=E>

36 Report on visit to BiH, A/HRC/44/42/Add.2, 20 May 2020, Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/112/13/PDF/G2011213.pdf?OpenElement>

37 Available at: <https://www.coe.int/en/web/commissioner/-/bosnia-and-herzegovina-must-immediately-close-the-vucjak-camp-and-take-concrete-measures-to-improve-the-treatment-of-migrants-in-the-country>

38 Vučjak was finally closed in December 2019 and the approximately 700 migrants were relocated to a new facility opened in Blažuj near Sarajevo with EU assistance.

39 SG/INF(2019)10, 23 April 2019, available at: <https://rm.coe.int/report-of-the-fact-finding-mission-by-ambassador-tomas-bocek-special-r/1680940259>

During 2019, the CPT made periodic visits to BiH<sup>40</sup> and North Macedonia<sup>41</sup>, but the Delegation did not visit immigration detention centres in these countries. On July 2019, the CPT transmitted to the Albanian authorities its report pursuing its visit to Albania in late November 2018. For the first time ever in Albania, the CPT also visited an immigration detention facility, such as the Karreç Detention Centre for Foreigners.<sup>42</sup> It is interesting to note that in the state's response to the report, this centre was not categorised as a detention facility.<sup>43</sup>

### CPT findings on Karreç Detention Centre for Foreigners

The CPT highlighted some of the main problems encountered in the activity of the centre<sup>44</sup>. **In terms of conditions of the Centre**, the CPT noted positively that communal spaces and detention rooms were spacious and well lit, with furniture and equipment that had been damaged partially by detainees. Furthermore, many sanitary facilities were dilapidated and in appalling hygienic conditions. Moreover, many complaints were received from detainees about insufficient heating and the shortage of personal hygiene products. The Centre also has several security (isolation) cells that were found to be in poor conditions.

**The CPT has recommended for these shortcomings to be remedied without delay.** Despite the fact that the Centre has an open-door regime within their detention unit throughout the day, there were allegations from detainees that access to open space was limited to only a number of days per month. In addition, foreign nationals, in the event of acting in a violent manner, were occasionally handcuffed to the bed inside a security cell.

**In at least one case, a foreign national was allegedly hand and ankle-cuffed to the bed in a stress position (spread-eagled) for 24 hours. In the CPT's view, this practice could easily be considered inhuman and degrading treatment and should be stopped immediately.** All foreign nationals at the centre complained of an almost total lack of information about their rights and the legal procedures applied to them. **The CPT recommended to the Albanian authorities to ensure that all foreign nationals are expressly informed, without delay and in a language, they understand, about their rights and the procedure applicable to them (including any legal remedies). The CPT stressed the need to provide professional interpretation, especially when providing healthcare in order to be able to make a proper diagnostic evaluation.** The CPT welcomes the state of affairs that unaccompanied minors are not detained in the detention centre but accommodated in a social welfare institution for juveniles.

**The CPT believes that the Albanian authorities will continue to avoid placing parents with children in the Centre and ensure that when, in exceptional cases, minors are held there with their parents, their stay being limited to the shortest possible period of time.** Regarding contacts with the outside world, foreign nationals can send and receive letters without any restrictions, and they are in principle allowed to receive visits every day. On the other hand, foreign nationals are not allowed to keep their mobile phones. Instead, detainees are occasionally given the opportunity to either make a phone call from a telephone provided by staff or to use their mobile phone for a few minutes. In relation to this finding, **the CPT recommended that, given that foreign nationals usually received no visits, the Albanian authorities should consider extending the possibilities for foreign nationals to have contact with the outside world by allowing them to keep their mobile phones**, as is increasingly the practice in various other European countries and/or by developing low-cost internet-based communication channels (such as Voice-over-Internet-Protocol).

40 Available at: <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-visits-bosnia-and-herzegovina-1>

41 <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-carries-out-visit-to-north-macedonia>

42 The Centre was opened in 2010 with an official capacity of 125 places, where were detained for up to six months by order of the immigration authority.

43 It is stated: "The Closed Centre for Foreigners accepts irregular foreign nationals in the territory of the Republic of Albania, against whom a measure of restraint has been taken in accordance with the legislation in force." Available at: <https://rm.coe.int/16809cb571>

44 Available at: <https://rm.coe.int/168097986b>

## 1.5. Changes in the National Legal Frameworks

In the previous period, there were legislative changes in the WB region. Preparatory activities for the adoption of new laws, as well as the amendments to the existing laws on the relevant issues were conducted in North Macedonia, Montenegro, and Albania. Most WB countries adopted different types of bylaws for the implementation of relevant laws on foreigners and asylum.

In **North Macedonia**, amendments to the Law on Foreigners have been initiated and submitted to the Parliament of North Macedonia and these changes will probably be processed after the election of the new parliament.<sup>45</sup> During 2019, there were some small terminology changes in the Law,<sup>46</sup> not directly related to migration issues. In **Montenegro**, the Law on Foreigners and the Asylum Law were amended in January 2019.<sup>47</sup> Amendments to the Law on Foreigners were related to the issuance of electronic visas and residence permits for some special categories of foreigners. According to the amendments to the Asylum Law, the accommodation, acceptance, and integration of asylum seekers and people under protection status were shifted to the Ministry of Interior (MoI). Both countries, North Macedonia and Montenegro adopted lists of safe countries of origin.<sup>48</sup>

The **Albanian** authorities have initiated changes of both key laws governing the position of migrants, refugees, and asylum seekers. These changes are also in compliance with the findings of the EU Progress Report 2019 for Albania.<sup>49</sup> The Law on Foreigners was proposed to be amended to be in line with the EU acquis, in particular, Directive 2004/38/EC of the European Parliament and of the Council. As concerns the amendments aims to amend two main issues regulated by the Law on Foreigners No. 108/2013, including, visa policy, creating necessary mechanisms for issuing electronic visas online, as well as employment policy for foreigners in order to improve some provisions related to work permits and employment of foreigners in the Republic of Albania. In contrast, the authorities proposed to completely change rather than to amend the existing Law on Asylum. This decision was made based on the legislative technique, due to numerous amendments planned to be carried out in the framework of the alignment with EU legislation. Despite the fact that the existing asylum legislation was positively evaluated by the EU, in the assessment reports<sup>50</sup>, some recommendations were given in the interest of its improvement. In addition, since 2014<sup>51</sup> the state bodies dealing with the implementation of this law have identified some shortcomings and ambiguities in the interpretation and implementation, which are reflected and addressed in the new Draft Law on Asylum.

Based on the Law on the Rights and Protection of the Child No. 18/2017, a new **Decision of the Council of Ministers** was adopted in 2019, **related to the procedures of return and readmission of children, which also affect unaccompanied minors (UAMs)**.<sup>52</sup> This decision aims to specify in detail the procedures and rules on the processes of: return of unaccompanied, foreign or stateless children that are in the Albanian territory; repatriation of unaccompanied Albanian children, that are in the territory of a foreign state; readmission in the territory of the Republic of Albania of UAMs coming from third countries or are stateless, as a result of the implementation of the readmission agreements between the Republic of Albania and other countries. The purpose of this document is to guarantee the rights of UAMs and to provide them with the highest possible protection, by the establishment of principles, procedures, and mechanisms responsible for UAMs, according to an integrated protection system and efficient coordination between all state institutions and non-profit organisations, taking into account the best interest of the child.

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45 On 22 March 2020, the Government of North Macedonia adopted a decree to postpone the elections due to COVID-19 pandemic and the decree for postponing the election is available at: <https://vlada.mk/node/20644> The elections were finally conducted on 15 July, 2020.

46 "Official Gazette of North Macedonia", No. 108/19.

47 "Official Gazette of Montenegro", No. 3/19.

48 In North Macedonia, the following are safe countries of origin: EU, Albania, Kosovo\*, Serbia, Bosnia and Herzegovina, Montenegro, Turkey, Russian Federation, Egypt, Ethiopia, UAE and Nepal. In Montenegro the list includes Albania, Bosnia and Herzegovina, North Macedonia, Kosovo\*, Serbia and Turkey.

49 Available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf>

50 Impact assessment report available at: <http://www.konsultimipublik.gov.al/Konsultime/Detaje/190>

51 Law on Asylum in the Republic of Albania, No. 121/2014

52 DCM No. 111, date 06/03/2019 "On procedures and regulations for return and readmission of children".

Table: List of adopted bylaws

Country	Bylaws of Law on Foreigners	Bylaws of Law on Asylum
<b>North Macedonia</b>	Rulebook for Foreigners <sup>53</sup>	List of Safe Counties of Origin <sup>54</sup>
		Rulebook on Documentation <sup>55</sup>
		Rulebook on the Standards for Acceptance of Asylum Seekers <sup>56</sup>
		Rulebook on the Manner of Care and Accommodation of UAMs and Vulnerable Categories with Recognised International Protection <sup>57</sup>
		Programme on the Integration of Persons with Recognised Protection for 2020. <sup>58</sup>
<b>Serbia</b>	Decree on Detailed Conditions for Refusing Entry to Foreigners into the Republic of Serbia <sup>59</sup>	Decree on the Establishment of Programmes to Support Voluntary Return of Foreigners for the period 2019 – 2021 <sup>60</sup>
	Rulebook on Detailed Conditions and Manner of Implementation for Proposing Ban on Foreigners' Entry, as well as the Supervision and Control of Foreigners when Entering and Moving across the Territory of the Republic of Serbia <sup>61</sup>	Rulebook on Social Assistance to Asylum Seekers and Persons Granted Asylum <sup>62</sup>
<b>Kosovo*</b>	Return of Foreigners with Illegal Residence in the Republic of Kosovo <sup>63</sup>	Procedures and Standards of Reception and Initial Treatment of Applicant for International Protection <sup>64</sup>
	Procedure and Criteria for Issuing Residence Permits for Foreigners <sup>65</sup>	Procedures and Standards of Review and Ruling on Application for International Protection <sup>66</sup>
	Administrative Instruction on Refusal of Entry into Republic of Kosovo <sup>67</sup>	Regulation on work of National Commission for Refugees <sup>68</sup>
		Regulation on Integration of Foreigners <sup>69</sup>
<b>Montenegro</b>		List of safe countries of origin <sup>70</sup>

53 "Official Gazette of Republic of North Macedonia", No. 190/2019.

54 "Official Gazette of Republic of North Macedonia", No. 56/2019

55 "Official Gazette of Republic of North Macedonia", No. 79/2020.

56 "Official Gazette of Republic of North Macedonia", No. 195/2019.

57 "Official Gazette of Republic of North Macedonia", No. 195/2019.

58 "Official Gazette of Republic of North Macedonia", No. 36/2020.

59 "Official Gazette of RS", No. 20/2019.

60 "Official Gazette of RS", No. 10/2019.

61 "Official Gazette of RS", No. 2/2019.

62 "Official Gazette of RS", No. 12/2020.

63 Administrative Instruction, Mol, No. 03/2019, available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18758>

64 Administrative Instruction, Mol, No. 01/2019, available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18547>

65 Administrative Instruction, Mol, No. 09/2019, available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=23314>

66 Administrative Instruction, Mol, No. 02/2019, available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18548>

67 Administrative Instruction, Mol, No. 04/2020, available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=30997>

68 Regulation, GRK, No. 29/2018 available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18792>

69 Regulation, GRK, No. 09/2019, available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=21006>

70 Rulebook on development of list of the safe countries of origin of foreigners seeking international protection "Official Gazette of Montenegro", No. 069/19.

## 1.6. Changes in the National Policy Frameworks

Referring to the previous BRMC policy paper, 2019 marked several changes and updates of policies in the countries of the WB region with the main goal of improving border protection, cross border cooperation, fighting illegal migration, smuggling and combating trafficking in human beings. The new action plans for integrated border management (IBM) strategies were adopted in Serbia, Montenegro, and BiH, while new IBM strategies were adopted in Montenegro, Kosovo\*, and BiH. Additionally, Serbia and Montenegro adopted new action plans for an anti-trafficking strategy, while Kosovo\* drafted the new Anti-trafficking Strategy and the Action Plan. Albania adopted the National Strategy on Migration and the Action Plan, and North Macedonia adopted the new Strategic Plan for MoI of North Macedonia.

In **Serbia**, the Action Plan for IBM for 2019<sup>71</sup> was adopted. According to the Action Plan, by the end of 2020, the legal framework will be harmonised with EU directives, the training system will be harmonised and the professional skills of border police officers will be improved in line with Schengen standards, technical supply will be provided to border crossings, and effective state border surveillance of illegal migration and cross-border crime will be established. Additionally, it stipulates the improvement of the existing applications for recording irregular migration and its connection with the similar applications related to border crossing, which is very important in the context of monitoring the execution of return decisions, which are executed either in the form of voluntary return within the deadline or in the form of forced return. The part related to cooperation with the neighbouring countries stipulates the following activities: continuation of joint patrols, the establishment of joint patrols with Croatia, information exchange in common contact centres, the establishment of joint locations of border crossings, as well as cooperation with regional organisations and initiatives.

In 2019, Serbia adopted the Action Plan for the Strategy to Prevent and Suppress Human Trafficking, especially Trafficking in Women and Children for 2019 and 2020.<sup>72</sup> In the Action Plan for the Strategy to Combat Trafficking in Human Beings the migrants, as vulnerable groups, are recognised in the activities related to early informing on human trafficking risks, improving conditions in asylum centres for informing migrants on human trafficking risks, as well as special training on identifying migrant victims for the staff of the Centre for Human Trafficking Victims' Protection.

It is also important to mention the new National Security Strategy,<sup>73</sup> where irregular migration is perceived as a security challenge for Serbia. The Strategy states that mass illegal migration represents a significant security challenge, bearing in mind that the migrant crisis and illegal migration, coupled with organised crime and the strengthening of religious radicalism, can condition the emergence of security threats, especially if Serbia, as a transit country, is compelled to take, even temporarily, care of migrants whose number exceeds its economic and organisational capacities.

**Montenegro** has adopted the IBM Strategy for 2020 – 2024<sup>74</sup> and the Action Plan for the implementation of the IBM Strategy for 2020.<sup>75</sup> The Action Plan includes measures to provide legal passing of the national border, measures for the prevention and identification of cross-border crime, with the focus on migrant smuggling, human trafficking and terrorism, and measures against persons in need of international protection. The goals are improved international cooperation, especially with neighbouring countries, the EU and Frontex institutions, on the resolution of border issues, prevention of illegal migration, cross-border crime and readmission of persons residing illegally in Montenegro. The Action Plan for the implementation of the Strategy for Combating Trafficking in Human Beings for 2020<sup>76</sup> identifies the challenges related to strengthening the proactive approach to the identification of illegal migrants and asylum seekers.

**Kosovo\*** has adopted the National Strategy on IBM.<sup>77</sup> Its implementation is a priority and one of the main criteria in the process of EU integration. Efficient border management and security are among the highest priorities in Kosovo.\* Its main duty is to balance open, yet safe and controlled borders in terms of threats coming from illegal migration, human and goods trafficking, international organised crime, and terrorism. It is stated that international cooperation on IBM with neighbouring and other relevant countries is an effective and efficient mechanism to ease travelling and legal international trade and at the same time to fight inter-border crime and irregular migration. This international cooperation refers to cooperation at the local level of border agencies at both sides of the border, bilateral cooperation

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71 05 no: 28-7146/2019, 12 December 2019.

72 "Official Gazette of RS", No. 50/19, Available at: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/drugiakt/2019/50/1/reg>

73 Adopted on 27 December 2019, available at: <https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/skupstina/strategija/2019/94/2>

74 Available at: <https://mup.gov.me/biblioteka/strategije?alphabet=lat>

75 The Action Plan for IBM on: <http://www.mup.gov.me/biblioteka/strategije?alphabet=lat>

76 Available at: <https://mup.gov.me/biblioteka/strategije?alphabet=lat>

77 Available at: <https://konsultimet.rks-gov.net/Storage/Consultations/40722-UpdAI.pdf>

between the borders of (neighbouring) countries, and multilateral cooperation for better access to common border management issues. It is stipulated that such cooperation will be made through meetings between neighbouring countries regarding the situation at different border crossing points, organising joint patrol or border monitoring, joint border crossing points, exchange of information, common focal points and offices, preparation of emergency situations, cooperation with the focus on combating crime with international stakeholders, participation in regional and international forums, and signing of international agreements.

The Strategy and the Action Plan against Human Trafficking 2020-2024 were drafted in 2019 but are pending adoption. It sets out the policies and measures that must be undertaken against this negative phenomenon. The Strategy and its Action Plan reflect a commitment to international cooperation against trafficking and the obligations arising from the EU integration process.

In **BiH**, a new strategy in the area of asylum and migration is in the drafting stage and the new IBM Strategy and Action plan for 2019 to 2023<sup>78</sup> has been adopted. The IBM Strategy emphasises that effective border control is not only in the interest of BiH but also in the interest of other WB countries and EU member states, and ever since Croatia became the member state, BiH has been at the EU external border, and consequently its responsibility for the prevention of illegal migration has increased. According to the Strategy, the main challenges of the border police are: the lack of necessary infrastructure at some border crossings, insufficient number of police officers, insufficient specialised technical equipment for detecting forged documents and inspecting hidden spaces on vehicles, increased number of misused documents, and the current migrant crisis. Additionally, border control is difficult, because in some parts of it there are natural obstacles such as mountain ranges, large rivers, canyons, etc. It is stipulated that the training of the border police should be fully harmonised with the Frontex Common Core Curriculum 2017. It is also necessary to strengthen the capacities regarding recognition of the persons entitled to international protection and special attention should be paid to vulnerable categories. One of the priorities is the efficient and fast return of all foreigners caught illegally entering and staying, and if the person does not pose a risk to the legal order, national security, public health, or if there are no risks of avoidance, priority should be given to voluntary return.

In June 2019, **Albania** approved the National Strategy on Migration and Action Plan 2019-2022,<sup>79</sup> which represents an important step towards the accomplishment of the national and international commitments of Albania in the field of migration. The Strategy focuses on four strategic priorities, namely: ensure strategic migration management in Albania; ensure safe and orderly migration from, through, and to Albania; develop an effective labour migration policy while enhancing the positive impact of migration on the national/local socio-economic development; and promote and protect migrants' rights and their integration. This document addresses the need for a cross-sectoral approach towards migration management, aiming to address the challenges and to maximise the impact of migration on the country's development. With regard to regional and international partnerships, the Strategy highlights that Albania actively participates in several regional and international migration consultative processes. In relation with the control of irregular movements at the country's borders and inside Albania, according to the Strategy, the main achievements have been reached over the last decade due to constant improvements in border infrastructure, enhancement of border guard capacities to detect, apprehend, and screen migrants both at the border and within the country, whilst referring them to adequate services.

At the begging of 2020, **North Macedonia** adopted the new Strategic Plan of the Ministry of Interior for the period 2020-2022.<sup>80</sup> From the aspect of migration, special priority is given to the prevention of cross-border crime and illegal migration, control of the readmission processes, and the realisation of the right to asylum. In the part of the Strategy set for capacity building activities of the Bureau for Public Safety related to border management and migration, the focus is on cross-border police cooperation, coordination with EU agencies and joint contact points, building a new reception centre for foreigners, and harmonisation of the national system with EU Schengen requirements for border management. The IBM Strategy<sup>81</sup> expired in 2019 and has not been renewed. Although drafted, the new Strategy for Integration of Refugees and Foreigners in North Macedonia<sup>82</sup> has not yet been adopted.

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78 Available at: <http://msb.gov.ba/PDF/110220205.pdf>

79 Available at: <https://diaspora.gov.al/en/miratohet-strategjia-kombetare-per-qeverisjen-e-migracionit-dhe-planit-i-saj-i-veprimet-2019-2022/>

80 Available at: [https://mvr.gov.mk/Upload/Editor\\_Upload/STRATESKI%20PLAN%202020-2022.pdf](https://mvr.gov.mk/Upload/Editor_Upload/STRATESKI%20PLAN%202020-2022.pdf)

81 Available at: <http://www.igu.gov.mk/files/STRATEGY.pdf>

82 Draft Strategy for Integration of Refugees and Foreigners in North Macedonia is available at: <http://mtsp.gov.mk/predlog-zakoni1.nspix>

## 1.7. Changes in the National Institutional Frameworks

During 2019 and the first half of 2020, there was a trend of establishing special reception centres near the borders so that migrants could be profiled and registered immediately upon their arrival, and the most significant activities during 2019 were conducted in Serbia, Montenegro, and Albania. Additionally, in some countries, there were structural and organisational changes in the organisation of relevant national institutions. The lack of border staff and relevant equipment is still present and there is enough space for further professional training in the entire region.

In **Serbia**, the Department for the Suppression of Irregular Migration was established in September 2019 and has only one Section – the Section for the Suppression of Irregular Migration.<sup>83</sup> The Department has been operational since November 2019. It is estimated that the establishment of the Department will improve and strengthen the system of prevention and suppression of irregular migration in Serbia, international cooperation in this field and national coordination, with emphasis on the cooperation of various organisational units of the MoI. It is responsible for the actions of the border police organisational units, but will direct and monitor the work of regional police departments, propose measures and plan activities to improve police practice on irregular migration issues. It will organise, implement, and directly participate in international and regional actions in the field of suppression of irregular migration. The Department performs the tasks of the Secretariat of the Multisectoral Task Force to implement the activities foreseen in the Strategy for Suppression of Irregular Migration for the period 2018-2020, with the Action Plan.<sup>84</sup>

Within the Service for Foreigners, two shelters for foreigners were established – Shelter for Foreigners in Plandište and Shelter for Foreigners in Dimitrovgrad. Although the shelters exist, their connection to infrastructure networks is pending. These two facilities are intended to be in the function of providing primary reception for irregular migrants, i.e. for their registration (taking biometric data) and further references to the competent lines of work of the ministry, or other state bodies (the Commissariat for Refugees and Migration). Each facility will be able to accommodate up to 100 people. The systematisation of the necessary posts for police officers who will work there has been completed (20 posts have been systematised respectively). In the Reception Centre for Foreigners in Padinska Skela there have been 29 workplaces systematised. In addition, the Reception Centre for Human Trafficking Victims has been opened, with a capacity of 6 places.<sup>85</sup>

According to the Law on Foreigners, the Serbian Ombudsman, as the National Preventive Mechanism for Torture Prevention (NPM), continued to monitor forced returns. From April 2019 to March 2020, 7 forced returns procedures<sup>86</sup> were monitored, and the related monitoring reports<sup>87</sup> were published. The reports concluded that forced returns were conducted according to the procedure, in a professional manner, and police officers were praised for their work. The only problem noticed and described in the reports is the problem in communication with foreigners who do not speak English, because interpreters were not engaged in these procedures, and police officers and the Ombudsman's staff could communicate with foreigners only through a special mobile phone application.

One of the main changes in **Montenegro** is shifting the responsibility for the reception centres from the Ministry of Labour and Social Welfare to the MoI of Montenegro. The role of MoI has also been strengthened by having coordination in the integration of foreigners under international protection. The Directorate for Civil Status and Personal Documents is responsible for the accommodation of foreigners with granted asylum, subsidiary, or temporary protection and assistance in integration in the society, coordination in exercising the statutory rights of foreigners with granted asylum or subsidiary protection, and cooperation with the UNHCR, the Red Cross of Montenegro, and other organisations and institutions, etc.<sup>88</sup> At the moment, the administrative and technical capacities related to the scope of work of this Directorate are at a satisfactory level.

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83 Revised Action Plan for Chapter 24, p. 13.

84 Available at: <https://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/eli/rep/sgrs/vlada/strategija/2018/105/1/reg>

85 Available at: <http://rs.n1info.com/Vesti/a566478/Djordjevic-i-Godfri-obisli-Prihvatiliste-za-urgentni-prijem-zrtava-trgovine-ljudima.html>

86 There were returns of citizens of China, Afghanistan, Algeria, India, North Macedonia and Ukraine.

87 NPM Report on forced return of citizen of China, no. 415-21/19 of 02/06/2019 and NPM Report on forced return of citizen of China, No. 415-66 of 27/12/2019. The Reports are available at: [https://npm.rs/index.php?option=com\\_content&view=category&layout=blog&id=112&Itemid=116](https://npm.rs/index.php?option=com_content&view=category&layout=blog&id=112&Itemid=116) and <https://www.ombudsman.rs/attachments/article/6443/izvestaj%20o%20prinudnom%20udaljenu%20drzavljanina%20kine.pdf>

88 Rulebook on Internal Organisation and Job classification of the MoI, Government of Montenegro, MoI, April 2019. Available at: <http://www.mup.gov.me/biblioteka/pravilnici?pagerIndex=4>

Although the number of migrants in Montenegro increased, accommodation capacities were sufficient for the reception of all registered persons.<sup>89</sup> Capacities of the Reception Centre (RC) in Spuz increased by 24 places, with the setup of four mobile accommodation facilities – houses (6 beds each) and two mobile objects – containers for the sanitary needs. In accordance with the Rulebook on the Internal Organisation and Systematisation of the Ministry of the Interior<sup>90</sup>, a container settlement was established in the area of Karaula Božaj, in the close vicinity of the border crossing, with accommodation capacities of up to 60 places. This allows asylum seekers to immediately express their intentions to seek international protection at the very border crossing. Before the opening of Karaula Božaj, the only possibility to express asylum intention was at the Centre for the Reception of Foreigners in Danilovgrad. That means that migrants used to travel through Montenegro without registration while coming to Danilovgrad.

The Government of Montenegro has adopted the Action Plan in the event of a massive inflow of migrants and refugees, which has not been made public. The Coordination Committee has been established,<sup>91</sup> which will coordinate the activities of public bodies in the implementation of the Action Plan, in case of a massive influx of refugees and migrants, as well as of the Operational Team.<sup>92</sup> The Operational Team makes conclusions about concrete measures that should be undertaken by the competent bodies, in order to control the situation adequately.

During 2019, in **Albania**, there were no substantial changes in the work of the national authorities in charge of migration and asylum, although some achievements have been made in the effective migration management. However, the increased migration flows have caught institutions unprepared, as human and institutional capacities are still lacking and migrants often face inappropriate treatment. The Ministry of the Interior has recently developed a contingency (emergency) plan<sup>93</sup> for better management of increased migration flows, which is currently in the process of consultation between relevant institutions. Regarding the need to increase human and material capacity, given the increase of migration flows in Albania, the Directorate for Asylum and Citizenship in the Mol has increased the human capacity with two additional employees. Moreover, different training has been carried out for state employees.<sup>94</sup> However, in terms of human resources and infrastructure of the competent authorities, AHC found that at most crossing border points, there were vacancies in police personnel, as well as civilian personnel, such as doctors, psychologists, and translators/interpreters.<sup>95</sup> As in the past, the lack of female staff at some crossing border points remains problematic. Moreover, crossing border points face difficulties in terms of shortages of vehicles and other logistics equipment, which are necessary and constitute minimum requirements for effective border control and management. In addition, AHC noticed problems with accommodation, food, and drinking water in some border crossing accommodation facilities. Problems were also found regarding the documentation and data records of persons subject to interview procedures or to a temporary restriction of liberty. During 2019, a new Centre for Registration and Temporary Accommodation of Irregular Migrants was established within the Mol.<sup>96</sup> The Centre was opened in October 2019 in Kapshtica, close to the border crossing point with Greece with a capacity of up to 60 people, ensuring access to shelter, medical support, and safety. Moreover, registration room equipment was provided for the administrative registration of migrants, as well as two minivans to facilitate the transfer of migrants to and from the Centre for all necessary additional services.

Regarding the role of independent institutions in the border monitoring process, the Ombudsman in Albania is considered crucial in this regard.<sup>97</sup> Monitoring was carried out in the centres where irregular migrants and asylum seekers/refugees were treated in the territory of Albania and border crossing points. Based on such monitoring, and having in mind the role of NPM, recommendations were prepared and submitted to the competent authorities.

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89 During the period from 1 January to 31 December 2019, 7739 people were accommodated in Directorate for reception and accommodation of foreigners seeking international protection (Reception Centre).

90 Available at: <http://www.mup.gov.me/biblioteka/pravilnici?pagerIndex=5>

91 Except for the Deputy Prime Minister for Political System, Interior and Foreign Policy, who is the President of the Coordination Committee, members are Ministers of Interior, Social Welfare, Transport and Maritime, Health, Defence and Foreign Affairs.

92 The operational team is composed of representatives of Ministry of Interior, Police Directorate, Ministry of Foreign Affairs, Health, Labour and Social Welfare, Defence, Transport and Maritime, Councillor of the President of the Government, Red Cross of Montenegro, UNHCR and IOM.

93 As an obligation derived from the National Strategy on Migration 2019-2022 and Action Plan 2019 2022 <file:///C:/Users/user/Desktop/Raporti%20BRMC/THE%20NATIONAL%20STRATEGY.pdf>

94 Data from Mol of Albania.

95 Available at: [https://ahc.org.al/wp-content/uploads/2020/03/Raport-monitorimi\\_Mbi-te-drejtat-dhe-lirite-e-migranteve-azilkerkuesve-dhe-refugjateve-ne-Shqiperi\\_compressed.pdf](https://ahc.org.al/wp-content/uploads/2020/03/Raport-monitorimi_Mbi-te-drejtat-dhe-lirite-e-migranteve-azilkerkuesve-dhe-refugjateve-ne-Shqiperi_compressed.pdf)

96 Available at: <https://albania.iom.int/news/migrants-having-access-essential-services>

97 Available at: <https://www.avokatipopullit.gov.al/media/manager/website/reports/On%20the%20role%20of%20the%20Ombudsman%20Institution%20regarding%20the%20Migration%20issue.pdf>

In **Kosovo\***, national authorities dealing with asylum and migration continue to have the same organisation. Some sections of the Department for Citizenship, Asylum and Migration (DCAM) remain understaffed, despite some staff increases in AC. The staff had several training courses, ranging from advanced skills for detecting falsified documents, return escorts, combating trafficking in human beings, screening and assumption of nationalities, to assisted voluntary return and reintegration. However, there is still a lack of specialised staff, including in the Kosovo\* Police, AC, and the Detention Centre for Foreigners. Particularly, interpretation services at the central and local levels need to be improved. The border police needs further capacity building in relation to protection-sensitive migration.

Kosovo\* has a reception facility for irregular migrants in Vranidoll that could accommodate 70 people, and since summer 2019 this facility has been expanded to offer an additional 200 places. Despite legal guarantees, proper care for the most vulnerable groups of irregular migrants remains a challenge. While AC can accommodate children, a standard operating procedure should be developed to treat UAMs and assess their eligibility for asylum. Kosovo\* is still struggling to find sustainable funding to ensure shelters for victims of gender-based violence and trafficking in human beings, as well as the reintegration of victims.

In **BiH**, the MoS adopted the Medium Term Work Plan (2020-2022)<sup>98</sup> and the Work Programme for 2020.<sup>99</sup> The Plan aims at a systematic and sustainable approach with regard to identifying priorities, planning activities, and allocating resources. The security aspect of the migratory influx in the country continues to be the primary focus of the state. In 2019, the capacities of the MoS were strengthened through the recruitment of additional staff. In addition, heads of the border police appealed to the authorities and asked for additional staff, claiming that about 1,000 additional border policemen were needed.<sup>100</sup> The number of registrations and interviews in the asylum procedure increased especially at the beginning of 2020.

The **North Macedonian** government has pledged to build a new centre for foreigners that should meet the basic standards for humane and dignified accommodation and treatment of migrants. However, although it was supposed to be completed by 2020, the new strategy of MoI<sup>101</sup> envisages for the centre to be completed by the end of 2022. The remaining active state institutions such as the National Commission for Combating Trafficking in Human Beings and Illegal Migration, the National Referral Mechanism (NRM), the Special Task Force on Countering Trafficking in Human Beings and Illegal Migration, and mobile teams for fighting illegal migration and human trafficking were performing their daily routine tasks and activities.

## 1.8. Activities of International Organisations and CSOs in WB countries

During 2019 and at the beginning of 2020, in some WB countries, activities of international organisations and CSOs were reduced, and due to the COVID-19 pandemic, since March 2020 these activities in transit centres and centres for asylum seekers have been almost cancelled.<sup>102</sup> However, strong support from international organisations and CSOs remained in BiH. Border monitoring by CSOs continues to be carried out only in Albania and Kosovo\*.

In **North Macedonia**, international and domestic organisations mainly reduced capacities and activities at the transit and reception centres. The UNHCR and IOM have reduced their presence in the transit centres at border crossings. UNICEF and Save the Children are no longer active in the transit sites. The Danish Refugee Council (DRC) has closed its field office in North Macedonia. Regarding domestic/local organisations, the Red Cross was present in the transit centres Vinojug and Tabanovce on daily basis and provided medical assistance and food and non-food items to migrants. MYLA, likewise, was present in both transit centres on a daily basis, while the remaining local organisations have all reduced their activities and presence.

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98 Available at: <http://www.msb.gov.ba/PDF/060320202.PDF>

99 Available at: <http://www.msb.gov.ba/PDF/060320201.PDF>

100 Available at: [http://www.rtv.rs/sr\\_lat/region/na-drini-sprecen-ulazak-100-migranata-iz-srbije-u-bih\\_1145555.html](http://www.rtv.rs/sr_lat/region/na-drini-sprecen-ulazak-100-migranata-iz-srbije-u-bih_1145555.html)

101 Strategic Plan of the Ministry of Interior 2020 – 2022. Available at: [https://mvr.gov.mk/Upload/Editor\\_Upload/STRATESKI%20PLAN%202020-2022\(1\).pdf](https://mvr.gov.mk/Upload/Editor_Upload/STRATESKI%20PLAN%202020-2022(1).pdf)

102 About the COVID 19 pandemic, see more in Chapter 2.8.

In **Serbia**, during 2019, the system of reception of migrants and asylum seekers relied heavily on the support of civil society. In the reception and asylum centres, international and civil society organisations<sup>103</sup> provided support in 9 different service areas.<sup>104</sup> However, the presence of organisations in the centres at the beginning of 2020 was significantly reduced compared to the previous year, that is, the number of activities/support implemented by certain organisations in the centres decreased. Psychiatric support and interpreting activities were also reduced. It is also noted that certain organisations continued with the realisation of their activities but reduced their presence in the centres.<sup>105</sup> Unlike the previous period, support in securing health care was transferred to the administration of the Ministry of Health, and support in securing food, children's corners and educational activities in certain centres to the Commissariat for Refugees and Migration.

During 2019, Civic Alliance (CA) activists in **Montenegro** visited camps and provided legal and psychosocial assistance and support. The Red Cross staff also provided psychosocial support. As migrants often complained about the lack of medical doctors in camps, CA has engaged two doctors in camps since April 2020. Additionally, CA lawyers and the UNHCR in Montenegro provided free legal aid to asylum seekers in the detention centre.

In **BiH**, besides state institutions, international organisations and international and local CSOs have an important role in working with refugees and migrants. In 2019, BiH completed its one-year presidency over the Migration, Asylum and Refugees Regional Initiative (MARRI). The main focus was on the implementation of readmission agreements among regional countries, but also on the security challenges that migration flows pose to countries in the region. The MoS expressed interest in future support to MARRI, joint projects and cooperation in the field of migration.

In **Albania**, international organisations have supported the state institutions in different aspects and national CSOs have also offered their services to support migrants, refugees, and asylum-seekers.<sup>106</sup> Fewer organisations are involved in border monitoring. AHC has continued its tradition of monitoring crossing border points and accommodation centres. Monitoring of the crossing border points has been carried out independently of the competent authorities within the Memorandum of Understanding concluded between AHC and the General Directorate of the Police. After carrying out crossing border points monitoring missions, AHC has contributed to raising public awareness on the challenges encountered by this category, by publishing the report through its communication channels and increasing the transparency and accountability of the state institutions by providing them with key findings and recommendations for improvement.<sup>107</sup>

Due to the increasing number of asylum seekers accessing the territory of **Kosovo\***, the border monitoring visits by CRP/K have been intensified and are carried out in close cooperation with the UNHCR.<sup>108</sup> Border monitoring teams have been mainly focused on monitoring the access of persons who may need international protection to the territory of Kosovo\*, thus ensuring their due access to national asylum procedures. CRP/K closely monitors the conditions of the migrants in both centres and regularly addresses the concerns and complaints of the applicants related to reception conditions and services provided. CRP/K has conducted twenty-seven (27) regular monitoring visits to the detention centre in order to identify persons in need of international protection held in detention facilities and advocate for their inclusion in the asylum procedures.

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103 SOS CV, DRC, BCHR, Caritas, Care, APC, PIN, IAN, BCM, CRS, CRPC, ADRA, Atina, Indigo, IDEAS, Sigma +, Infopark, Philanthropy, Pomoc deci, NEXUS, CADO, BF, Tzu Chi, Divac.

104 Protection; administrative/legal information; health; education; food; non-food items (NFI); accommodation; sanitary and hygiene conditions and support for the local community.

105 From multi-day visits to visits when needed during the month.

106 These organisations are also involved in lobbying and advocacy activities, and mainly provide free legal aid for this category.

107 Based on this monitoring, AHC reiterates that "the infrastructural and human resources capacity of the competent authorities in the Republic of Albania, to accommodate irregular migrants or asylum seekers, remains far from European standards and is considered insufficient for a greater influx of migrants. Albania also needs to have in place strict monitoring procedures for the migrants and foreigners human rights implementation level". Available at: [https://ahc.org.al/wp-content/uploads/2020/03/Raport-monitorimi\\_Mbi-te-drejtat-dhe-lirite-e-emigrantëve-azilkerkuesve-dhe-refugjateve-ne-Shqiperi\\_compressed.pdf](https://ahc.org.al/wp-content/uploads/2020/03/Raport-monitorimi_Mbi-te-drejtat-dhe-lirite-e-emigrantëve-azilkerkuesve-dhe-refugjateve-ne-Shqiperi_compressed.pdf)

108 Technical Agreement between MoI and the UNHCR on cooperation to facilitate access of persons in need of international protection to the territory of Kosovo\* and to asylum procedures was concluded on 5 December 2013.

## 2. Part II: Practice

### 2.1. Access to the Territory

During 2019, the number of new arrivals in WB countries increased, migrants mainly transit through the countries with the main goal of reaching their desired destinations.

In **North Macedonia**, the authorities applied a selective approach to registering and profiling intercepted or detained migrants, leaving many migrants outside the registration protocols. The average stay of migrants in North Macedonia was between 2-3 days at the transit centres. The migratory movement developed in two directions, most travelled from Greece to the northern countries, and a smaller number of migrants were those that failed to reach EU countries, so they returned to Greece from Serbia and other Balkan countries, via North Macedonia, hoping they will be eligible and benefit from the system of relocation in EU countries, if their asylum application is successful and positively resolved. In its annual report,<sup>109</sup> the Mol of North Macedonia reported an increased number of attempts to cross the border illegally from Serbia to North Macedonia by 27%. It is assumed that this practice is related to the fact that Serbia has restored visa requirements for Iranian nationals who used to arrive in Belgrade without visas, and with the help of smugglers transited North Macedonia to reach Greece.

In **Serbia**, according to the UNHCR,<sup>110</sup> the number of identified new entries in Serbia increased significantly in 2019 compared to 2018. In 2019, there were increased entries from the direction of Albania.<sup>111</sup> Municipalities and towns in the border zone at the exit border points, i.e. the border with Croatia, BiH, and Hungary are still particularly affected by migratory movements. UNHCR statistics show that between January and December 2019, more than 20 migrants lost their lives trying to cross the Serbian border.<sup>112</sup>

#### Wire fence at the border with Macedonia

According to the statement of representatives of the municipality of Preševo, the Government of Serbia has started setting up a wire fence at the border with Macedonia.<sup>113</sup> So far, government officials have not provided detailed information on the issue. However, in a document of the Ministry of Finance<sup>114</sup> published in June 2020, the request of the Republic Property Directorate was approved, and the list of property owned by individuals and legal entities temporary occupied in favour of the Republic of Serbia “in order to obstruct the state border in the scopes determined by the Study on the Obstruction of the State Border with the Republic of North Macedonia.”

In **Kosovo\***, 2019 was characterised by a huge increase in the flow of migrants, compared to the previous years and the numbers were four times higher than in the previous year.<sup>115</sup> Coming mainly from Syria, Iraq, Morocco, Algeria, and Palestine, these people remained in Kosovo\* for just three or four days, prior to moving on to their destinations in the EU. Of the total number of migrants who entered Kosovo\* irregularly, 2,081 were sheltered in AC.<sup>116</sup> Unlike the situation in 2018, when most of the applicants were adult single men, in 2019 a larger number of families with children were registered in AC.

109 Annual Report of the Ministry of Interior of Republic of North Macedonia for 2019. Available at: [https://mvr.gov.mk/Upload/Editor\\_Upload/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD%20%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0\\_%202019%20%20\(3\)final.pdf](https://mvr.gov.mk/Upload/Editor_Upload/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD%20%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0_%202019%20%20(3)final.pdf)

110 UNHCR Snapshot December 2019. In 2018, an average of about 260 to 2,600 entries were registered on a monthly basis, and in 2019, 690 to 4100. Compared to the total number of newly arrived migrants, there were about 13% of UAMs.

111 In December, for example, after North Macedonia most entries were from Albania.

112 UNHCR Snapshot December 2019.

113 “Serbia is erecting wire fence on the border with North Macedonia”, Radio Free Europe, Available at: <https://bit.ly/33o7zse>

114 Document No: 463-00-00035/2020-07 from 30 April 2020.

115 CRP/K data.

116 Three persons in need of international protection were identified in Detention Centre and transferred to AC.

Although during the first eight months of 2019, the border police prevented the entry of some 7,000 migrants<sup>117</sup>, the number of arrivals in **BiH** continues to increase.<sup>118</sup> The main declared countries of origin were Pakistan, Afghanistan, Iraq, and Morocco. Almost a third of those (35%) in formal accommodation are families with children and unaccompanied and separated children. During 2019, the relevant actors identified a trend of the so-called “male families” where children arrive with their alleged brothers, uncles, fathers. Depending on the entry point, the majority of migrants and refugees continue on towards Una-Sana Canton (USC), while a smaller proportion remains in temporary reception centres in Sarajevo. In 2019, an increased number of border crossings from Serbia via Zvornik was identified. From Zvornik migrants are reaching Tuzla, which has become a transit zone to the USC and a location where migrants and refugees stay for a short time, but in large numbers. This location has no reception centres, only a few informal sites provided by local CSOs with limited accommodation capacities.

During 2019, the number of migrants in **Montenegro** also increased, and most of these persons are from the following countries: Morocco, Algeria, Iraq, Syria, Pakistan, Afghanistan, Palestine, Iran. Adult males, who were alone, stayed for an average of one to two weeks, or left before the expiration of the legal deadline for applying for international protection. Families generally stayed longer, one to two months, to rest and move on. In 2019, the border police registered 2,015 illegal departures from Montenegro. There were also 7,979 illegal entries into the country, while 1,514 illegal exits were prevented. Of the total number of registered persons (7,987), 835 migrants were registered at the border.<sup>119</sup>

The trend of increased movements has been reflected in **Albania** as well. More concretely, compared to 2018, the numbers have almost doubled (by 179.2% compared to last year) by reaching up to 11,890<sup>120</sup> irregular migrants entering Albania, mainly from Iraq, Syria, Morocco, Algeria, Afghanistan, Pakistan, etc. The majority of irregular migrants are adult males. The movements mostly come from the south-eastern border, close to Greece<sup>121</sup> and North Macedonia. Therefore, also during 2019, there was increased attention in these areas, with more human capacities, including representatives of Frontex and more accommodation centres built close to the border. The intercepted irregular migrants were either pushed back to Greece, or accommodated temporarily at 3 different RC in Gjirokastra, close to the border, where the screening process took place and from where they were transferred to the National Reception Centre, depending on the outcome of the administrative procedures undertaken on a case-by-case basis.

As for attempts to cross borders through official border crossings, there was a similar practice in the region – Turkish citizens were among the greatest number of the denied foreigners in region, and very often places of attempts of illegal border crossing were international airports. During 2019 in Kosovo\*, 348 Turkish nationals<sup>122</sup> were denied entry by International Airport of Prishtina Border Police (IAP BP). These persons attempted to enter Kosovo\* as tourists, were stopped and not allowed to enter Kosovo\*, as they did not meet the entry conditions.<sup>123</sup> From Skopje International Airport, 888 foreigners were denied entry in the country, while others were denied entry from ground border crossings.<sup>124</sup> The majority of foreigners with denied entry were citizens of Albania (716), followed by 632 Turks, 156 Kosovars, 83 Georgians, 75 Germans, 49 Serbs, 44 French, 41 Greeks and 38 others. The reasons for denial were stating the wrong purpose for travelling, expired travel documents, the lack of sufficient financial means to support the travel, false personal data, illegal employment, not having a valid visa, and a ban to enter the country. In Serbia, the largest number of denied entries was for citizens of India, Tunisia, Turkey, and persons with unknown citizenship.<sup>125</sup> The most common reasons for denying entry were related to travel documents – either the documents were inadequate or they did not even have them. Persons whose entries were denied at Nikola Tesla Airport were placed in the transit zone in closed premises with numerous shortcomings.<sup>126</sup>

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117 In August 2019 chief of Border police Mr Galić stated that Border police prevented entrance of some 7,000 migrants since the beginning of 2019.

118 The Service for Foreigners' Affairs (SFA) detected 29,196 arrivals of refugees and migrants to BiH in 2019 which represents a 21% increase compared to 2018.

119 Data of the Border Police of Montenegro.

120 Data from MoI of Albania.

121 It was reported that for the largest part of irregular migrants (99.47%), the last transit country is Greece.

122 CRP/K Data. All those denied entry at the International Airport were of Turkish nationality, mostly residents of south-east Turkey, which borders Syria, Iraq, and Iran.

123 IAP BP relies on the Law on Foreigners and A.I (MIA) No. 24/2013 On Refusal of Entry into the Republic of Kosovo\* when issuing refusals of entry.

124 558 from the border with Albania, 449 from the border with Kosovo and 205 from the border with Serbia.

125 Migration Profile of the Republic of Serbia for 2019, p. 22, available at: [http://www.kirs.gov.rs/media/uploads/Migracije/Publikacije/Migracioni\\_profil\\_Republike\\_Srbi.%20godinu.pdf](http://www.kirs.gov.rs/media/uploads/Migracije/Publikacije/Migracioni_profil_Republike_Srbi.%20godinu.pdf)

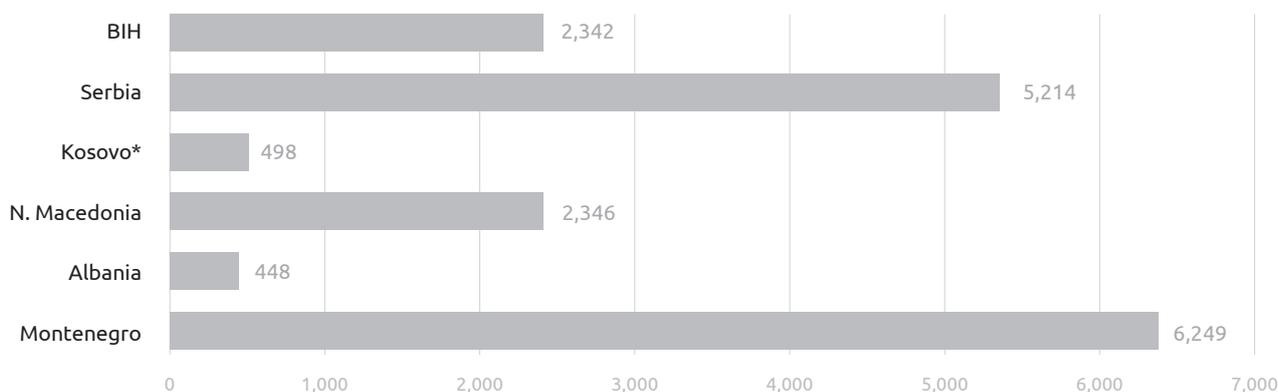
126 NPM reports on visits Nikola Tesla Airport are available at: [https://npm.ils.rs/index.php?option=com\\_content&view=category&layout=blog&id=32&Itemid=23](https://npm.ils.rs/index.php?option=com_content&view=category&layout=blog&id=32&Itemid=23)

### The case of Turkish national H.I. at Belgrade Airport<sup>127</sup>

The case of H.I. concerned a Turkish citizen of Kurdish ethnicity who flew to Belgrade's Nikola Tesla Airport from Doha at the beginning of 2019 and was denied entry to RS. H.I. was put in closed premises in the transit zone of Belgrade Airport without a reasoned decision. The Belgrade Centre for Human Rights (BCHR) was contacted by his sister, a refugee in Germany, who informed the BCHR that her brother had an intention to seek asylum in Serbia but was not allowed entry. Because he did not know English, and the Border Police Station officers did not engage an interpreter, the BCHR managed to get in touch with him through their own interpreter. Since police officers did not issue him a registration certificate confirming that he had been registered and expressed intention to seek asylum, the BCHR asked him to take a picture of himself with a sign stating that he wants asylum in Serbia and that he wants to be represented by the BCHR. After the BCHR intervened and faxed the pictures to the Border Police Station at Nikola Tesla Airport, H.I. was issued a registration certificate and released on the territory of RS to seek asylum.

Compared to 2018 data,<sup>128</sup> denied entries were increased in BiH, Montenegro, and Kosovo\*. The most significant increase was recorded in Montenegro (78%). In Serbia, North Macedonia, and Albania there was a slight decline in the number of denied entries in 2019.

Figure: Denied entries 2019 (data from national authorities)



## 2.2. Smuggling of migrants and other acts related to illegal border crossings

One of the main routes of irregular migrants begins in **Albania** and largely traces the Adriatic Coast, continuing to Montenegro, although some irregular migrants also continue their travel to Kosovo\* and further to Serbia. The continued migration pressure also exists on the Albanian-Montenegrin border, and many migrant smugglers are active in the northern part of Albania. This route appears to be mostly used by Iraqis and Syrians who are in some cases supported by regionally active organised crime groups. In the south of the region, at the entrance of the WB routes, the border authorities detected 125 facilitators on the Greek-Albanian border between July 2018 and June 2019. During the same period, the Albanian police arrested migrant smugglers, responsible for facilitating 172 irregular migrants.<sup>129</sup> Due to smuggling and help for illegal border crossing activities, fatal incidents were registered when irregular migrants lost their lives in attempts to travel to the northern border of Albania.

127 Right to Asylum in the Republic Serbia 2019, BCHR, Belgrade, 2020, p. 26.

128 See data for 2018 in: Common Western Balkan Migration Policy: Borders and Returns, p. 23.

129 Available at: <https://www.statewatch.org/media/documents/news/2020/feb/eu-eupol-frontex-easo-wb-smuggling-report.pdf>

Another route is from Greece to **North Macedonia**, where the number of illegal migrants that use smuggling services is slowly growing. Many of those caught are registered and immediately returned to Greece and only a few of them are allowed to stay in the country and are accommodated in the TC Vinograd. If and when smugglers are engaged, migrants who speak foreign languages, usually English, are separated from the group and sent to the detention centre- the Centre for Foreigners in Gazi Baba<sup>130</sup> to await trial to testify against the smugglers. After testifying, the standard procedure for these migrants was to be transferred to AC in Vizbegovo, Skopje, where they entered the asylum procedure after completing and submitting asylum applications. During 2019, the criminal activities related to smuggling of migrants increased by 11.4 % compared to 2018. The authorities encountered 81 cases of smuggling of migrants and brought criminal charges against 96 individuals in 49 criminal charges for smuggling of migrants. The majority of the smugglers were nationals of North Macedonia, including 10 third-country nationals.<sup>131</sup> With these criminal cases for smuggling, the authorities intercepted and prevented smuggling of 1,529 migrants.<sup>132</sup> In the same period, Mol filed 5 criminal charges for child trafficking during which 3 female children, victims of child trafficking, were identified.<sup>133</sup> Other registered criminal charges were related to the abuse of the visa regime with the EU countries. These criminal charges were filed against two individuals from North Macedonia for organising transportation of families seeking asylum protection in Germany. Finally, the country registered an increase in the number of cases of misdemeanour actions against foreigners by 11.4% compared to the previous year. Mol filed misdemeanour charges against 1,236 third-country nationals, majority of them for violations related to the Law on Foreigners for illegal stay and overstay in the country.

In **Kosovo\***, 19 smuggling incidents with 171 persons involved were recorded in 2019. The majority of migrants/refugees were smuggled to Kosovo\* through Albania, where 17 groups were smuggled from Albania to Kosovo\*, 2 from North Macedonia to Kosovo\*, while for one group of 8 individuals the smuggling journey started in Greece and ended up in Kosovo\* although the arrangement was to smuggle them from Greece to Serbia.<sup>134</sup>

During 2019, in **Serbia** 157 criminal charges were filed against 218 perpetrators for 1,834 smuggled persons. Migrants enter Serbia by crossing the green belt or hidden in freight vehicles, most often assisted by smugglers. In addition, during irregular movements in transit countries, the smuggled migrants often become victims of crimes perpetrated by other persons, including other migrants.<sup>135</sup> Some civil society organisations present on the field point out that there are some indications that a part of migrants, particularly those staying in Serbia for a longer period of time, have acquired some financial assets by cooperating with criminal groups that primarily deal with smuggling of migrants.<sup>136</sup>

With regard to misdemeanour proceedings, in the first nine months of 2019, there were 1,311 procedures initiated for illegal crossing of the state border, in accordance with the Law on Border Control, while during the same period 65 procedures for illegal entry were conducted in line with the Law on Foreigners.<sup>137</sup> There were 848 procedures conducted for illegal stay in accordance with the Law on Foreigners. In that period, 1,080 foreigners were held liable for a misdemeanour of illegal border crossing and 778 were held liable for a misdemeanour of illegal stay. The majority of those held liable for misdemeanour came from Afghanistan (442), Pakistan (138), Iraq (51), Iran (28) and Syria (26). In only 31 cases the misdemeanour courts discontinued the court proceedings on the grounds that the accused had applied for asylum.<sup>138</sup> From the beginning of 2019 to 30 September 2019, 267 minors were found guilty of illegal crossing of the state border and illegal stay in Serbia. Over 77% of them were convicted of crossing or attempting to cross the border outside of designated border crossing points or without a valid document. A large number of judgments demonstrate a lack of procedural guarantees applicable to children (juveniles) in the misdemeanour proceedings.<sup>139</sup>

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130 Over the year, the authorities used this facility to detain 319 migrants (15 migrants were female) for the purpose of establishing the identity of migrants, illegal entry in the country, expulsion and removal of migrants from the country. The number of UAMs detained in the reception centre for foreigners is reduced and decreased at a rate of 33 children in 2019.

131 They were 3 from Kosovo\*, 3 from Pakistan and 1 from India, Nepal, Turkey and Bulgaria.

132 Data obtained from the Annual Report of the Mol of Republic of North Macedonia for 2019, section Organised Crime and Corruption. On the other hand, the official answer obtained from Mol 16.1.2-384/1 from 11/03/2020 provides data about 45 criminal charges for smuggling initiated from Mol over the course of 2019, in which 1,529 migrants were discovered.

133 Mol answer 16.1.2-384/1 from 11/03/2020

134 Data gathered by CRP/K

135 Serious and Organised Crime Threat Assessment (SOCTA), Mol, 01 No. 118/15-12, Belgrade, 31/12/2015.

136 Drašković et al. (2019), Challenges in Asylum and Migration System – position of particularly vulnerable categories. Group 484, Belgrade.

137 Article 121 in conjunction with Article of the Law on Foreigners.

138 Right to Asylum in the Republic Serbia 2019, BCHR, Belgrade, 2020, pp. 36-37.

139 Right to Asylum in the Republic Serbia 2019, BCHR, Belgrade, 2020, p. 113.

### The case of a migrant child in pre-trial detention

The BCHR intervened in the case of a child who was put in pre-trial detention in Sremska Mitrovica, after the child unsuccessfully attempted to cross the border using fake identification documents.

The Higher Court in Sremska Mitrovica was immediately contacted via a letter containing a proposal to reconsider its decision to place the child in detention. The BCHR stated, among other facts, that the child is likely in need of international protection, that detention is deemed contrary to national and international standards, and that the child had been assigned a temporary guardian even though the child's mother as a primary caretaker and guardian was residing in Belgrade, in Krnjača AC. The BCHR also contacted an attorney at law to assist the child in a scheduled hearing.

The Higher Court in Sremska Mitrovica promptly replied to the BCHR letter stating that the hearing will be held earlier. Accompanied by an Arabic translator, the attorney at law represented the child before the said Court and the child was subsequently released from detention and joined the family in Krnjača AC.

In **BiH** the prosecution accused 46 people of human smuggling in 2019, ten people less than the previous year.<sup>140</sup> The State Court handed down convictions for 47 people in 2019, more than in 2018, when 30 people were sentenced for the same crimes. Most smugglers were discovered in the Trebinje area, in southeast Bosnia. The majority were Bosnian citizens, while most foreign smugglers were from Serbia or Montenegro. More than 90 per cent of judgments were pronounced on the basis of plea agreements. Sanctions ranged from conditional sentences to three years in prison. Ancillary penalties of several tens of thousands of euros were also imposed and the proceeds of migrant smuggling worth over 10,000 euros were seized, along with several vehicles used to execute the crimes. Two persons allegedly charged with committing crimes were acquitted in the first instance.<sup>141</sup> During 2019, a total of 710 foreigners were placed under surveillance/detention in the Immigration Centre.<sup>142</sup> Milder measures of surveillance were imposed on 358 foreigners.<sup>143</sup>

During 2019, seven criminal charges were filed against smugglers in **Montenegro**.<sup>144</sup> There were few cases when migrants reported to the police that they were robbed, and that smugglers did not take them to the agreed location, as well as that smugglers threatened them.<sup>145</sup> There were also complaints from the local population on the behaviour of migrants, saying that they broke into their homes, slept in their yards, etc.<sup>146</sup> Generally, the police do not prosecute migrants for misdemeanour and criminal acts related to illegal border crossings, but all of them had access to the territory and were introduced to the asylum procedure.

## 2.3. Access to the Asylum Procedure

Generally, migrants passing through the WB route are not interested in seeking asylum in these countries. Despite the fact that a huge number of them just pass through the territory or stay for a while, waiting for the opportunity to move further in the EU countries, some of them have applied for asylum. During 2019, the number of asylum applications increased in Kosovo\*, Albania and North Macedonia. The adequate protection and access to the asylum procedure of vulnerable groups is still a challenge in all WB countries, especially UAMs. The process of appointing legal guardians is not harmonised and UAMs are not staying long enough in reception centres in order to make enough space for guardians to create the relationship of trust. An additional problem is the fact that one person is regularly appointed as a guardian to a very large group of children.

140 Data gathered by the Balkan Investigative Reporting Network (BIRN).

141 Analysis by Haris Rovčanin, "Bosnia's Courts convict more Migrant smugglers, available at: <https://balkaninsight.com/2020/01/09/bosnias-courts-convict-more-migrant-smugglers/>

142 It is 25 % decrease when compared to 948 foreigners detained in 2018.

143 Source: MoS BiH.

144 Information from CA.

145 Data collected on the terrain in Pljevlja in direct contact of CA representative and migrants.

146 Data of the Border Police in Pljevlja.

In **North Macedonia**, only a small number of migrants who entered the country filed for asylum.<sup>147</sup> Nevertheless, the number of asylum claims, compared to the number of claims in the previous year, increased by over 60%. Out of the total number of asylum claims, 159 claims were launched before the police stations, 231 claims were launched at the detention centre for foreigners and 115 asylum claims were launched by migrants accommodated in both transit centres Vinojug (92) and Tabanovce (23).<sup>148</sup> The most represented nationalities were migrants and asylum seeker from Afghanistan, Pakistan, Iraq, Syria, Algeria, Morocco, Algeria, etc.

### Delaying asylum procedures in North Macedonia

During 2019, in six cases, asylum claims launched in TC Tabanovce, near the border with Serbia, were not processed within a reasonable time. The applicants were not transferred to AC Vizbegovo in Skopje, as required by law, but were kept in TC for up to 8 days due to the lack of communication and coordination among institutions.

In three individual cases, UAMs that expressed interest and filed for asylum in TC Tabanovce were held for 8 days in this TC before being transferred to AC in Skopje. The law states that in cases minors apply for asylum, authorities must immediately appoint them guardians and it is mandatory that the transfer of UAMs asylum seekers occur in the presence of an appointed guardian or a representative of the MLSP. As a result of the lack of communication and the absence of a social worker, the police refused to transfer the minors to AC in Skopje. In these cases, MYLA intervened and demanded the presence of a social worker and immediate transfer of the minors to AC in Skopje, where the conditions are far more humane compared to the conditions in TC Tabanovce. Only after the intervention, the minors were transferred to AC in Skopje, where they were duly registered and accommodated in a separate area designated for UAMs.

In two more cases, asylum seekers that launched their claims in TC Tabanovce were kept for 8 days in this TC due to the lack of will of the border police to transfer them to AC in Skopje. The problem occurred between shifts of the police personnel in which each time the other shift was blamed as responsible for conducting the transfer. Namely, after launching their asylum claims, the other police shift used different excuses to delay the transfer.<sup>149</sup> MYLA reacted several times and after 8 days of constant urges and requests, they were transported to AC Vizbegovo in Skopje.

Lastly, there was one case with a mentally challenged asylum seeker. According to the Rulebook on the Standards for the Reception of Asylum Seekers,<sup>150</sup> the manager of the institution demanded a health examination of the asylum seeker before placing him in the reception centre, but the problem was that there was no competent doctor in the TC in Tabanovce who could examine the asylum seeker.<sup>151</sup> Therefore, the documents provided by the medical staff were not sufficient for the manager of the asylum reception centre as they did not provide any information about the mental health status of the asylum seeker and the potential needs for special care, treatment, etc. With the facilitation of MYLA's lawyers, a competent doctor examined him and issued a certificate of his health condition. Once all documents for transfer and admission were completed, the asylum seeker was registered and accommodated in AC in Skopje.<sup>152</sup>

During 2019 in **Serbia**, out of the total number, 1,041 foreigners expressed their intention to seek asylum while in the border zone,<sup>153</sup> and 68 registration certificates were issued at the Border Police Station at Nikola Tesla Airport.<sup>154</sup> BCHR lawyers had to intervene in 11 cases, involving 23 foreigners, who were denied entry into the RS, while claiming to have sought asylum before the border police.<sup>155</sup> Migrants, persons who expressed their intention to apply for asylum and asylum seekers present in Serbia were mostly staying in the centres. On the other hand, UNHCR statistics indicate

147 The total number of asylums claims in North Macedonia was 505 according to MYLAs statistics, while Mol officially counted 490 asylum claims.

148 Mol answer 16.1.2-3024/1 from 03/10/2019; 16.1.2-3308/1 from 28/10/2019; 16.1.2-383/1 from 11/03/2020.

149 The staff claimed that the previous shift has not prepared the documents for the transfer; have not left any note that a transfer to Skopje was needed; were not aware of any asylum claim in the camp, otherwise they would have arranged transfer to Skopje; and other excuses.

150 Each asylum seeker before being admitted to the reception centre must be examined by a doctor that will release a certificate of his health condition.

151 The TC in Tabanovce is equipped only with paramedics from the Red Cross that provide basic medical checks.

152 MYLA field Report 2019 available at: <https://myla.org.mk/wp-content/uploads/2020/05/FIELD-REPORT-2019-MYLA.pdf>.

153 Right to Asylum in the Republic Serbia 2019, BCHR, Belgrade, 2020, p. 21.

154 Right to Asylum in the Republic Serbia 2019, BCHR, Belgrade, 2020, p. 24.

155 Right to Asylum in the Republic Serbia 2019, BCHR, Belgrade, 2020, p. 24.

that the number of persons present outside the centres is not negligible.<sup>156</sup> The Asylum Office conducts its activities only in designated asylum centres. According to the Law on Asylum, it is possible to file for asylum in writing, but for other phases of the asylum procedure it is necessary to be accommodated in an asylum centre.

As the number of asylum applications in **Kosovo\*** increased, since the beginning of 2020 Kosovo\* has started applying Article 52 of the Law on Asylum<sup>157</sup>, foreseen to be applied only in the event of a mass influx of migrants. This article provides for an expression of intention to apply for international protection prior to submitting the regular application for international protection. Paragraph 2 of this article stipulates that a foreign citizen or a stateless person who has expressed an intention to apply for international protection will be registered with the competent authority and is obliged to appear before the competent authority within seventy-two (72) hours, while paragraph 3 foresees that the confirmation according to paragraph 2 will serve as proof that a foreign citizen or a stateless person has expressed an intention to apply for international protection and as such will be permitted to stay for a period of seventy-two (72) hours. In the initial period of its application, there were neither clear legal steps nor instructions and operational tasks explicitly foreseen that should be followed by both border police authorities and the Department for Citizenship, Asylum and Migration (DCAM). It was not clear where, how, by which competent body/authority the person who expressed intention should be registered. During the first month of application of this article, only the Directorate for Migration and Foreigners (DMF) office in Prishtina had access to the registration database (issuance of the so-called 72-hour certificate). After that, all the DMF offices in the region started issuing this document. There were cases where applicants received their certificates of intention to seek international protection in Prishtina at the DMF offices and were told to go to AC, but they were not allowed in without the police. On the other hand, the law does not stipulate that it is the obligation of the Kosovo\* Police to accompany applicants to AC, so they refuse to provide transportation. Therefore, there has been a significant drop in the number of registered applicants in the centres in recent months, compared to the time before the 72-hour rule. The migrants with issued 72-hour certificates are placed in AC in the village of Magure, and in RC in the village of Vranidol. A lot of applicants choose to stay in the capital, in private rentals, because the centres are crowded.

The case management system – database on asylum seekers/refugees has been established in accordance with UNHCR data policy. It is user friendly but still needs some improvements in adding data related to the process of integration of recognised refugees, data on detained persons, as well as some technical improvements which could easily provide accurate data in a simplified manner.<sup>158</sup> Although the Country of Origin Information (Col) reports on four (4) countries (Turkey, Syria, Iraq and Iran) have been shared and continuously updated by DCAM authorities, further efforts are needed to enhance authorities' capacities, especially with regard to the interpretation and use of Col.

### "Gulistan Cases" on Kosovo\*

In June 2019, the Assembly of Kosovo\* approved an inquiry commission's report concerning potential illegalities relating to the deportation of six Turkish nationals in March 2018 for their alleged links to a terrorist organisation. According to the report, the deportation violated the international human rights obligation of non-refoulement on the basis that there were substantial grounds for believing that the six returnees would face a real danger of being subjected to torture, cruel, inhuman or degrading treatment or punishment if deported back to Turkey. The report also found that Kosovo\* authorities allegedly violated international and regional human rights instruments, the Constitution, and other relevant legislation by violating the procedure for revoking residence permits and failing to provide them their fair trial rights. Subsequently, in September 2019, the Appellate Court affirmed the ruling of the Basic Court of Pristina finding that the rationale used to rescind their residency permits was baseless. After this case, all Turkish citizens in Kosovo\* who were engaged in private educational and health institutions of the so-called "Gulistan" organisation have applied for international protection in Kosovo\* and all of them, 94 people, gained refugee status in Kosovo\* in 2018 and in 2019. DCAM, as the first instance decision-making body in the Refugee Status Determination Process in Kosovo\*, has so far decided based on the merits of the case. It should be noted that for this reason no complaint has been filed in the second instance, as all cases that deserved this status were granted refugee status.

156 January – 300; February – 450; March – 575; April – 500; May -600; June – 750; July – 800; August – 600; September – 900; October – 900; November – 1000; December – 650.

157 No. 06/L-026.

158 As of October 2019, the UNHCR started to obtain data from MIA database with the list of registered applicants and share it with CRP/K, it has been noticed that the number of applicants is not matching with CRP/K's database.

In 2019, 95% of people arriving in **BiH** expressed their intention to seek asylum and were issued attestations.<sup>159</sup> They were issued in local languages, and the problem is that interpretation services were not provided in this stage of asylum procedure that often resulted in numerous mistakes—mainly incorrect spelling, or incorrect date of birth. A foreigner who expressed intention must be admitted to one of the formal reception centres in the country or provided private accommodation. In the event that those residing in private accommodation fail to register their residence within the validity period of the expressed intention to seek asylum, they will be prevented from accessing asylum procedure. Asylum seekers and migrants accommodated in temporary reception centres are no longer required to register their address of residence and to pay administrative tax amounting to 10 BAM. The Service for Foreigners Affairs (SFA) is delivering lists of all beneficiaries accommodated in reception centres to the Asylum Sector, which is later scheduling registration without any additional requirements. If a foreigner fails to submit the asylum application within a set deadline without a justifiable reason it will be considered that he/she has abandoned the expressed intention of which the MoS will inform the SFA. The Asylum Sector within MoS increased the number of scheduled registration and interviews, especially in the second part of 2019. The registration and interview procedures are held in temporary reception centres, AC Delijaš and RC Salakovac or in the UNHCR Info Centre located in Sarajevo. The MoS does not often schedule the registration procedure in USC, and those with scheduled interviews are invited to Sarajevo irrespective of the distance between Sarajevo and Bihać.

In **Montenegro**, migrants who entered the country were granted access to the asylum procedures at the very border crossing.<sup>160</sup> Throughout 2019, the Asylum Directorate of MoI scheduled interviews for 1,391 persons, with only 95 interviewed, as the others had left the country in the meantime. 62 lawsuits<sup>161</sup> were filed with the Administrative Court against the first instance decisions. During 2019, there was a common practice of the Asylum Directorate to interview asylum seekers in line with the concept of the safe third country.<sup>162</sup> The Directorate exercised its discretion right to make a decision under Article 33, without explaining the solutions in detail, but taking into account only the fact that the third European countries are signatories of the Convention Relating to the Status of Refugees and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

### **The case of the application of the safe third country concept in Montenegro**

Before they came to Montenegro, an Iranian family had accessed the asylum procedure in Serbia. They stayed in the camp in Tutin for about 4 months and waited for the date of their interview. According to the family, they suffered physical violence on religious grounds from other people in the camp, and they reported it to the police in Tutin and to the camp administration. Although there was a police report, the police did nothing to prevent the perpetrators from repeating this act, and as the violence was repeated several times, this family decided to leave Serbia.

In this case, the Asylum Directorate estimated that Serbia is the safe third country although the family filed relevant evidence on their concrete maltreatment in Serbia by a few persons from Iran. They had police reports on physical abuse by people who also lived in the camp, as they were Christians from Iran. In that period, a large number of interviewed Iranians quickly received negative decisions<sup>163</sup>, against which they filed lawsuits with the Administrative Court. At the beginning of 2020, the Administrative Court adopted nine lawsuits, whereby it started the implementation of the customary law of the European Court and the proceedings were returned to a retrial.

159 Attestation of expressed intention to seek asylum is valid for 14 days.

160 According to CA findings, all persons who expressed their intention to file an application for international protection with the competent authority – the border police, were accepted and introduced into the asylum procedure.

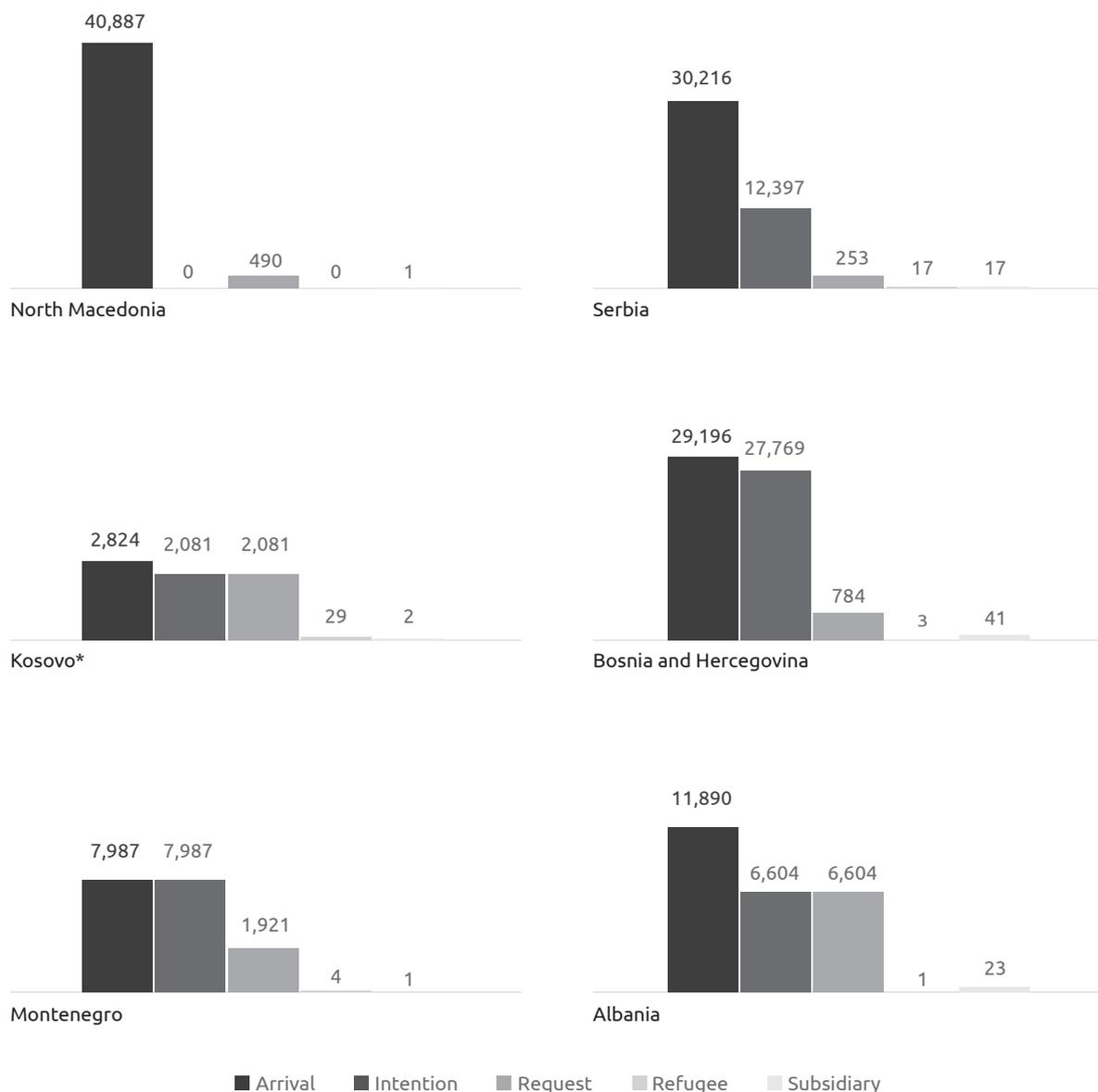
161 The Court dismissed 17 lawsuits, while 13 lawsuits were upheld, and cases were returned to MoI for a retrial. Of these 13 cases with adopted lawsuits, not a single person was in the country in early 2020, when the Asylum Directorate sent them the second invitation to a hearing. At the end of 2019, another 30 cases remained before the Administrative Court of Montenegro.

162 Article 33 of the Law on International and Temporary Protection of Foreigners – “Request for international protection of foreigners who illegally entered at the territory of Montenegro from the safe third European country, shall be rejected, if that country respects the principle of prohibition of expulsion or return, if certain circumstances of humanitarian or political character do not exist.”

163 During 2019, the Asylum Directorate made 18 decisions on rejection, according to the principles of the safe third European country.

In 2019, the number of asylum applications in **Albania** also increased. Usually, the asylum procedure is interrupted due to the fact that applicants leave the country shortly after entering it. During the asylum procedures before the institutions, the number of asylum seekers is gradually declining. This is the result, firstly, of the loss of interest of migrants who continue their travel to neighbouring countries, and secondly, due to the lack of proper legal representation by lawyers. Therefore, despite the fact that the Directorate for Asylum and Citizenship, Border and Migration Police evaluated all applications, most of procedures were suspended since most of the migrants left the country during the procedure and also any contact with them was lost. In addition, there are very few cases that follow the administrative appeal remedies. Thus, the National Commission for Asylum and Refugees, which is the second administrative instance that appeals against the decisions of the Directorate on granting asylum, handles about 2-3 cases of appeal per year. In several cases, the legal remedy was filed against the administrative decisions before the court. Data from the UNHCR<sup>164</sup> show that only 61 asylum application procedures were closed during 2019.

Figure: Asylum statistics for 2019<sup>165</sup>



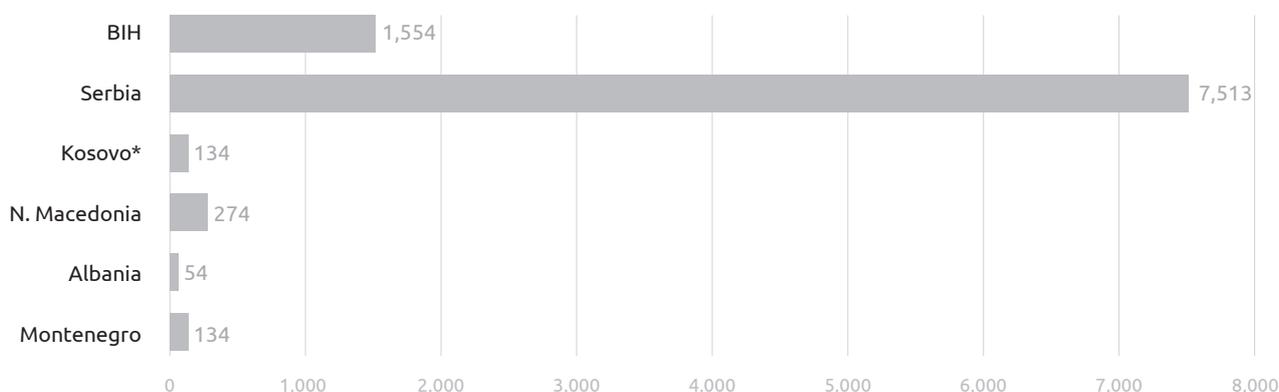
164 Available at: <https://data2.unhcr.org/en/documents/download/73833>

165 The source **for North Macedonia**: UNCHR: Asylum Statistical Overview 2019, <https://data2.unhcr.org/en/documents/download/73672>. The Mol of the North Macedonia in its report for 2019 encountered 24,601 attempts for illegal border crossing, while according to MYLAs internal statistics, 22,972 arrivals were counted in TC Vinojug and Tabanovce. In addition, according to MYLAs statistics, there were 505 asylum claims, but the Mol of North Macedonia and the UNHCR in their reports registered 490 persons that had applied for asylum. The source **for Serbia**: Quantitative Snapshot UNCHR Serbia Achievements 2019, but according to the Migration Profile of the RS for 2019 there were 12,935 formally expressed intentions, 251 requests for asylum and 19 subsidiary protections. The source **for Kosovo**: CRP/K Data, [https://mpb.rks-gov.net/Documents/Shpalljet/WEB\\_Raport\\_2019\\_Shqip\\_e.pdf](https://mpb.rks-gov.net/Documents/Shpalljet/WEB_Raport_2019_Shqip_e.pdf). The source **for BiH**: MoS of BiH. **For Montenegro**: Mol of Montenegro. **For Albania**: Mol of Albania.

## 2.4. Forced Returns

Compared to 2018,<sup>166</sup> the issuing of expulsion decisions mostly increased in Serbia (about 2,000 more issued expulsion decisions) and in North Macedonia, the number of expulsion decisions increased significantly in percentage, but is still not high in absolute numbers. In BiH, the issuing of these decisions remained at the same level and in other WB countries, the issuing of expulsion decisions decreased.

Figure: Expulsion decisions 2019 (data from national authorities)



During 2019, in WB countries there were cases of forced returns of third-country nationals. Returns orders were issued for different reasons, mainly with entry bans of 6 months to 5 years. Illustrative examples from Montenegro and Albania of possible breaches of the *non-refoulement* principle in the procedure of forced returns are presented below.

### The case of extradition in Montenegro

CA provided free legal aid to a person for whom the Council of the Higher Court in Bijelo Polje made a decision on extradition. However, extradition in this case was not possible because all remedies for extradition decisions had not been exhausted at the outset.

In the meantime, the client applied for international protection in Montenegro. Pursuant to Article 12 paragraph 5 of the Law on International and Temporary Protection of Foreigners, the procedure for granting international protection prevents extradition, i.e. extradition of a foreigner seeking international protection for whom an international arrest warrant has been issued and for whom a decision on extradition has been made, i.e. extradition to the origin country, until the decision on the application for international protection becomes final.

CA filed an appeal to the Appellate Court that was dismissed as unfounded. Afterwards, CA submitted a temporary measure to the European Court of Human Rights and a constitutional appeal to the Constitutional Court. The constitutional appeal was upheld, and the Constitutional Court considered that extradition would violate Article 3 of the European Convention. The European Court also issued a decision indicating to the Government of Montenegro that under Article 39 of the Rules of the European Court of Human Rights, this person should not be extradited.<sup>167</sup>

Pursuant to Article 16, item 6 of the Law on Mutual Legal Assistance in Criminal Matters, the detention of this person has been extended, because he is still in the process of granting international protection, now before the Administrative Court.

<sup>166</sup> See data for 2018 in: Common Western Balkan Migration Policy: Borders and Returns, p. 31.

<sup>167</sup> Due to data protection, the case number and other details of the case are known to CA.

## Albania: Harun Çelik Case

On 1 January 2020, a Turkish citizen who had been imprisoned in Albania for over 5 months was deported to Turkey against the law. According to Bold Media, Harun Çelik<sup>168</sup>, a Turkish teacher, fled Turkey after the attempted coup in 2016, and it is believed that the Albanian authorities deported him upon the request by the Turkish government over his alleged links to Turkey's Gülen group. Immediately after his deportation, several actors, including the national and international community, reacted to the news and called for an independent investigation and compliance with several conventions signed by Albania (UN Geneva Refugee Convention, European Convention on Extradition, European Convention on Human Rights, etc.)

Given these circumstances, AHC carried out a verifying mission<sup>169</sup> where several state institutions involved in the Çelik's case were contacted. Firstly, Mr Çelik was arrested in July 2019 at Tirana International Airport of Albania, in his attempt to cross the border to get a flight to Canada. He was accused of "forging IDs, passports and visas" and was detained in a prison in Albania until 1 January 2020. According to AHC, it was found that he was illegally kept in prison for 13 days more than his prescribed detention. Based on the data and evidence published in the media<sup>170</sup> it is reported that the Turkish citizen Harun Çelik requested the right to enjoy asylum in the Republic of Albania by requesting verbally several times "azil, azil". However, institutions reported that no application for asylum was filed by Mr Çelik, which was also confirmed by his lawyers.

Nevertheless, based on Article 3/b of the Law no. 121/2014 "on Asylum of the Republic of Albania", "asylum request" (which differentiates from asylum application) is any declaration of the foreigner or of the stateless person, expressed in whatever manner and at whatever time before competent authorities at border crossing points, or within the territory of the Republic of Albania, who seeks international protection in accordance with international conventions and the Albanian legislation. AHC found that the Albanian authorities had not conducted an objective, comprehensive and realistic assessment of whether the return of this citizen to his country of origin constitutes a real risk to his life or freedom on the grounds of membership in a social group, or political beliefs, as is the standard set in the jurisprudence of the Strasbourg Court.<sup>171</sup> In addition, the verbal request of Mr Çelik for asylum was not taken into consideration and the expulsion order was given with immediate effect.

AHC has also found that the expulsion order no. 2125, dated 1 January 2020, issued by the Department for Border and Migration had the following irregularities:

1. AHC found that the order was drafted only in Albanian and English, and not in Turkish (the mother language of the foreigner). Since there is no statement/declaration of the foreigner that he understands the English language, the order may be considered a violation of the provisions of the Law on Foreigners, which provides for the right of the foreigner be informed in writing, in a language of his understanding.

2. The expulsion order states that the deadline for Mr Çelik to leave the territory of the Republic of Albania is 0 days from the day of notification. The applicant was notified on 1 January 2020 and on the same day this order was executed by the authorities by sending him to the airport. AHC found that the procedure of immediate execution of the expulsion order is a violation of the provisions of Article 110 of the Law on Foreigners(amended). The law foresees the right of a foreign citizen to appeal the expulsion order issued by the responsible authority for border and migration, and until the appeal procedure is completed, the foreigner will be kept under conditions of alternative measures of supervision or detention in a closed centre. Moreover, although the extradition order stated the right to a legal remedy, it was noticed that the provisions related to filing an appeal against the decision on deprivation of liberty were incorrectly stated. Following the wrong reference to the legal basis and failure to provide an opportunity to exhaust the internal mechanism of appeal against the expulsion order, AHC considers that the right to private and family life was violated (Article 8 ECHR); the right to an effective remedy (Article 13 ECHR), as well as the principle of non-refoulement.

168 Available at: <https://boldmedya.com/2020/01/02/erdoganin-uzun-kolu-arnavutlukta/>

169 Available at: <https://ahc.org.al/raport-i-vecante/>

170 Available at: <https://www.reporter.al/azil-azil-harun-celik-u-debua-me-force-pas-nje-ndalese-ne-ambasaden-turke/>

171 M.A. and others v Lithuania, Application no. 59793/17, <http://hudoc.echr.coe.int/eng?i=001-188267>

Regarding the immediate execution of this expulsion order, the Department for Border and Migration argued that the order issued against the citizen Harun Çelik was based on Article 112/2 of the Law on Foreigners that allows expulsion if the presence of the foreigner poses a threat to national order and security. However, the expulsion order had foreseen a different reason provided by Article 109/a of the LoF that argues that the foreigner has entered illegally the territory of the Republic of Albania and there is information that he/she will transit illegally to other countries. The state authorities do not provide further explanations concerning this reference and do not mention any information or documentation that objectively supports this conclusion, which to AHC opinion is in violation of the transparency principles.

## 2.5. Readmission

During 2019, most activities in the WB region regarding readmission agreements and implementation protocols were conducted in Montenegro. The Protocol on Readmission between the Government of Montenegro and the Government of the Kingdom of Spain<sup>172</sup> came into force on 22 May 2019. The Protocol on Readmission between the Government of Montenegro and the Government of the Republic of Greece was signed on 7 March 2019. The competent authorities of France, Sweden, Denmark, Finland, Cyprus, Poland, Portugal, Romania, Ireland, Lithuania and Latvia received the initiative to negotiate the conclusion of implementation protocols with EU countries with which Montenegro has not yet signed protocols.<sup>173</sup> In the negotiations between delegations of the Government of Montenegro and the Government of Georgia, the readmission agreement of people who do not have a residence permit was harmonised and the signing of this agreement was initiated within competent bodies of Georgia. The process of electronic harmonisation of the readmission agreement of people without a residence permit between the Government of Montenegro and the Government of Ukraine has been initiated. At the beginning of July 2019, the signing of a readmission agreement was initiated with the countries that are the main sources of irregular migrants, such as Pakistan, Iraq, Iran, Morocco and Algeria. Regarding the practice, 350 migrants were returned in a short readmission procedure (349 in Albania and one person in Serbia), while 2,028 migrants were accepted (most requests were from BiH – for 1,970 people).<sup>174</sup> In the regular procedure, Montenegro sent the readmission request for 155 people. Most requests (for 109 people) were sent to Albania, which rejected requests for 108 people and adopted only one. In the same period, Montenegro accepted 73 readmission requests, of which only two were not adopted.<sup>175</sup>

The number of concluded readmission agreements in other countries remained the same and the most widely used readmission agreement was the agreement with the EU, especially in readmission of domestic nationals. Kosovo\* sought to launch negotiations for readmission agreements with six EU Member States and three non-EU countries. The Bilateral Readmission Agreement with Spain, signed earlier in 2018, entered into force in Albania in 2019. The Republic of Serbia has fulfilled the conditions for signing the implementation protocol with Lithuania, and within the framework of bilateral cooperation in the field of readmission between RS and the Republic of Azerbaijan, the text of the agreement is being harmonised. At the request of Argentina, Serbia submitted a draft readmission agreement and the protocol. The initiatives for concluding the readmission agreements and the implementing protocols with Afghanistan, Pakistan, Algeria, Morocco, Iran and Iraq were repeated in 2019.<sup>176</sup>

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172 "Official Gazette of Montenegro, International treaties, No. 2/2019" from 20 February 2019.

173 Source: Ministry of Interior, Directorate for Civic Status and Personal Documents.

174 Source: Ministry of Interior, Directorate for Civic Status and Personal Documents.

175 Action Plan for the implementation of the Strategy for Reintegration of People Returned according to the Agreement on Readmission 2016-2020. Available at: <https://www.google.com/url?q=http://www.gov.me/ResourceManager/FileDownload.aspx?rId%3D400936%26rType%3D2&sa=D&source=hangouts&ust=1586953930269000&usq=AFOjCNHLgMEuArxZJ45fJdWEmGf2mZd6dQ>

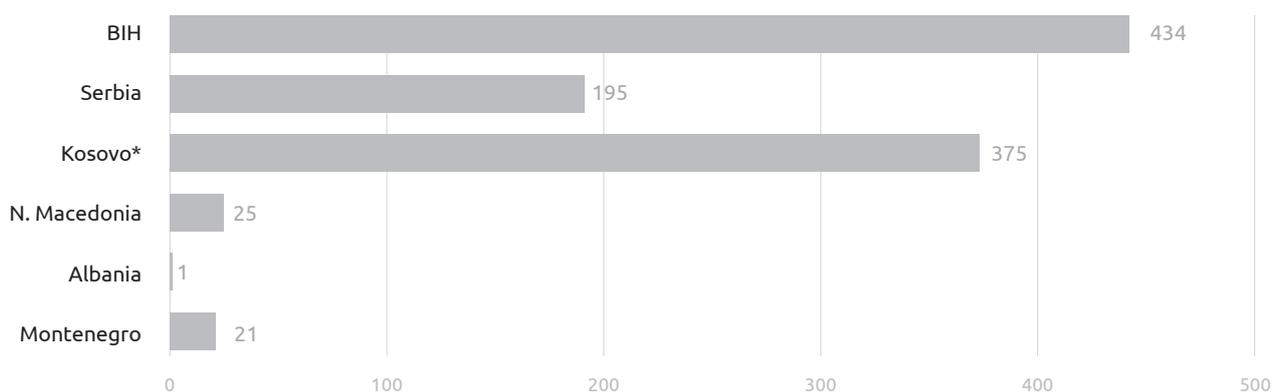
176 Government of the Republic of Serbia, Action plan for the Chapter 24, revised.

## 2.6. Assisted Voluntary Return (AVR)

Migrants and asylum seekers staying in WB countries who no longer want to continue their stay in the country can benefit from the assisted voluntary return programme (AVR) managed by IOM. The general condition which must be fulfilled for AVR is that the country of origin or the third country where they wish to go to must be considered safe for them. IOM helps them obtain valid travel documents. For migrants coming from countries consumed by internal conflicts, such as Syria, IOM will not take any action to help return to these countries.

Due to the fact that Kosovo\* and IOM signed a Memorandum of Understanding on Assisted Voluntary Return and Reintegration in May 2019, the largest increase in the number of migrants benefiting from AVR programme was in Kosovo\*. In Serbia and Montenegro, the number of AVRs has dropped and in BiH, North Macedonia and Albania stayed at the same level. The largest number of AVRs is still from BiH, and the smallest from Albania.

Figure: AVR 2019 (data from IOM and national authorities)

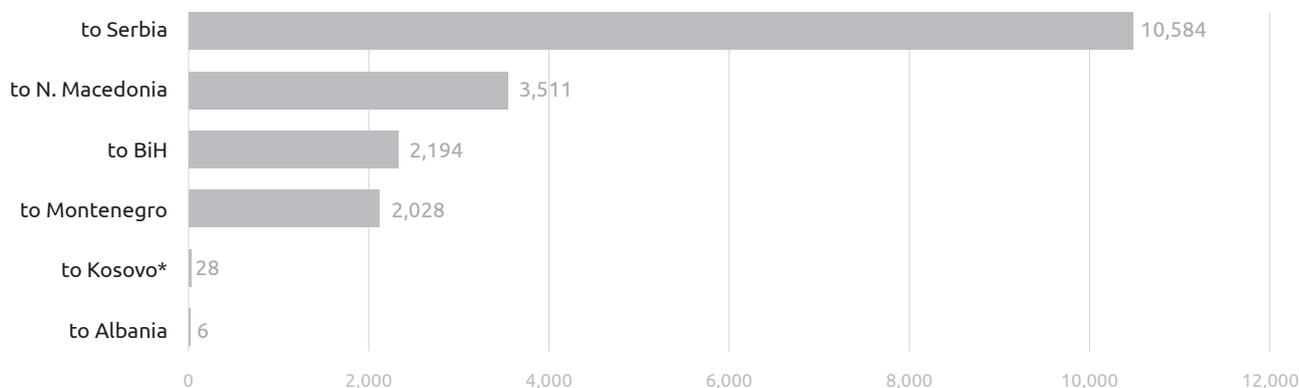


## 2.7. Informal returns

This practice of informal returns on the WB migration route continued to be applied in 2019 and in 2020. Bearing in mind that independent border monitoring does not exist in the majority of WB countries, the scope of informal returns of migrants cannot be precisely determined. Additionally, most informal returns happen during the night, when they are very unlikely to be noticed, thus depriving migrants of possible legal assistance or support.

As in 2018,<sup>177</sup> the largest number of pushbacks was to Serbia and in both years (2018 and 2019) it was about 10,500 migrants a year. The number of pushbacks to BiH was doubled and to North Macedonia dropped significantly.

Figure: Informal returns 2019



177 See data for 2018 in: Common Western Balkan Migration Policy: Borders and Returns, p. 35.

Informal returns between **North Macedonia** and Greece and Serbia and North Macedonia, continued with increased intensity compared to 2018.<sup>178</sup> The intercepted migrants were brought to TC Vinojug, registered and pushed back to Greece. In most of the cases, migrants were left without any available choice, but at the same time, they refused to apply for protection in the country because they wanted to avoid the registration procedures. Occasionally, some migrants were selectively allowed to stay and were admitted to TC Vinojug in Gevgelija, especially if there were families with children or other categories of vulnerable groups among the migrant population. Migrants caught in Serbia and returned to North Macedonia can be generally found in the villages of Lojane and Vaksince, near the border with Serbia. They remain in the village, and with the help of smugglers, they make multiple attempts to cross the border, enter Serbia and travel up to the north. Nevertheless, one portion of those returned from Serbia to North Macedonia find their way to TC Tabanovce where they request to go back to Greece. Later they are transported to TC Vinojug in Gevgelija and informally returned to Greece.

Many migrants were collectively expelled to **Serbia** (10,584), mostly from Croatia (3,317 recorded expulsions), Hungary (2,867 recorded expulsions), Bosnia and Herzegovina (2,453 recorded expulsions) and Romania (1,937 recorded expulsions).<sup>179</sup> On the other hand, there were 3,511<sup>180</sup> recorded irregular movements (including pushbacks) from RS to North Macedonia in 2019.<sup>181</sup>

Due to an increase in the number of entries in **Kosovo\*** in 2019, the Border Police HQ issued an order to increase the presence and border control throughout villages alongside the western border with Albania,<sup>182</sup> where, as a result an increase in pushbacks to neighbouring countries was noted. Thus, 106 pushback incidents with 526 persons involved were recorded, of which 97 pushback incidents were carried out by Kosovo\* authorities. 19 pushback incidents were carried out by the border police covering Vermice green border zone where 150 individuals were pushed back to Albania, while 9 pushback incidents were carried out by Serb authorities, where 28 individuals were pushed back to Kosovo\*.<sup>183</sup> The information was collected through communication with local communities, interviews with migrants and the police officials, but the number of pushbacks is considered to be much higher than reported.

According to the Border Violence Monitoring Network Report, in June and July 2019 alone, the Croatian border police pushed back 438 migrants to **BiH**.<sup>184</sup> The report finds that as part of systematic push-back practices, the prevalence of testimonies describing Croatian authorities burning the belongings of people transiting continued. Witnesses described Croatian police officers burning clothes, sleeping bags, backpacks and tents besides targeting other material possessions such as mobile phones, power banks, and personal documents. The report also makes the point that pushbacks from Croatia to BiH are organised and coordinated. The report mentions testimonies about driving in the police van as being: overcrowded, overheated, overly long, with low levels of oxygen and reckless, causing the people inside to faint and vomit. In July 2019, the Federal Administrative Court of Switzerland ruled to suspend the transfer of an asylum applicant to Croatia under the Dublin Regulation due to the current situation of summary returns at the Croatian border with BiH.<sup>185</sup>

During 2019, at the **Montenegro**-BiH border crossing on the territory of Pljevlja, almost all migrants faced the same problem on that road – the inability to enter the territory of BiH, and when they succeeded, the Bosnian police quickly found them and returned to Montenegro. They mostly walked all the way from Pljevlja to BiH. Another problem they faced on their way is that, after brought back from the border, they were mostly very tired, dehydrated and hungry, so in a number of cases they ended up in the hospital. They also often complained about the action of the police, especially the Bosnian police. After several unsuccessful attempts to come to BiH, they would usually return to Podgorica. When it comes to serious cases that would not make it to Podgorica by bus, IOM would provide the transportation, but in 90% of cases, they manage to organise return on their own, mostly by regular bus lines.<sup>186</sup>

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178 In the answer provided from Mol, No. 16.1.2-383/1 from 11/03/2020, (as well as in the annual report of Mol for 2019) it is stated that the authorities have prevented 24,601 migrants to illegally cross the border from the neighbouring countries, i.e. 21,949 attempts from Greece and 2,106 from Serbia. The term used by Mol is "attempt" to illegally cross the border, but in practice, the data is related to the migrants that have crossed the border and entered the country illegally, caught by the police authorities and returned back to Greece and Serbia. In fact, these are the informal returns of migrants that are pushed back to Greece or Serbia. In its field report for 2019, MYLA reported 20,511 pushbacks in 2019. However, the information was collected only from the border with Greece. Data from TC Tabanovce at the border with Serbia is not included in this number, due to the limited access on the field.

179 UNCHR: Quantitative Snapshot of UNHCR Serbia Achievements 2019.

180 *Ibid.*

181 According to UNCHR: Quantitative Snapshot of UNHCR Serbia Achievements 2019, in 2018 there were 8,621 push-backs from Serbia to North Macedonia.

182 Vermice, Zhur, Shkoze, Gorozhub, and Goden.

183 CRP/K Data.

184 N1, Border Violence Monitoring: Croatia unlawfully pushed back 438 migrants, 17 August 2019, available at: <http://ba.n1info.com/Vijesti/a363020/Border-Violence-Monitoring-Hrvatska-u-BiH-nezakonito-prebacila-438-migranata.html>

185 ECRE, 30 August 2019, available at: <https://www.ecre.org/illegal-pushback-and-border-violence-reports/>

186 Data collected on the field in Pljevlja in direct contact of CA representative and migrants.

The reported numbers and pushback statistics from and to **Albania** are lower than in other countries in the region. Moreover, based on the data provided by the MoI for 2019, there were 46 cases of pushbacks of irregular migrants from Albania to Greece. There were also pushbacks registered to Albania from the neighbouring countries, where a total of 6 irregular migrants were pushed back, mainly from Montenegro, Greece and Kosovo\*.

## 2.8. The Impact of COVID-19 on International Protection and Border Protection System

The COVID-19 pandemic has strongly impacted migration policies in the region. Due to the COVID-19 pandemic crises declared by the World Health Organization, during March 2020, all WB countries declared states of emergency and closed their borders. Migration flows in the region decreased and migrants were locked down in asylum and reception centres. In the accommodation facilities, migrants were informed on measures for protection and prevention of the virus in several languages and not a single person among asylum seekers and migrants were confirmed to be infected. Employees and asylum seekers in centres were equipped with protection equipment, and separate rooms for quarantine and self-isolation were prepared in the centres. Asylum procedures were temporarily suspended and activities of CSOs in the centres were reduced and primarily conducted online.

On 18 March 2020, the President of **North Macedonia** signed the decision and declared the state of emergency in the country for 30 days<sup>187</sup> and after that the state of emergency was continued on several occasions. As a result, some changes in practice were affected by the authorities and institutions involved in migration and asylum management. Namely, the management of AC in Skopje restricted the freedom of movement for the asylum seekers accommodated in this facility outside the centre. The management of the facility requested from the asylum seekers to limit their movement outside the facility and reduce their movement only to urgent matters or purchase groceries from the stores near the centre.

At its 28th meeting on 25 March, the Government of North Macedonia decided that all new asylum seekers and illegal migrants found in the territory of the country would be accommodated in TC Vinojug in Gevgelija for a 25-day quarantine, prior to being transferred to AC in Skopje.<sup>188</sup> Although there was no formal decision adopted by the authorities to limit or prohibit the presence of CSOs and other actors in the transit centres, all CSOs and other organisations decided to limit their presence and visits to both transit centres during the pandemic crises. Regarding the security of Tabanovce and Vinojug transit centres, the police remained in charge of their maintenance. The military continued to be present, patrolling and protecting the border with Greece, without any changes in their mandate.

In **Serbia**, the Government adopted the Decision on the Temporary Restriction of Movement of Asylum Seekers and Irregular Migrants Accommodated in Asylum and Reception Centres in RS on 16 March 2020.<sup>189</sup> By way of this Decision, the movement of asylum seekers and irregular migrants was restricted 24/7 to asylum centres and reception centres.<sup>190</sup> The measure was imposed to “protect against the spread of infectious diseases in the territory of the RS” and “prevent the uncontrolled movement and wilful departure from asylum and reception centres of individuals who may be virus carriers”. Migrants were allowed, under exceptional circumstances, to leave the facilities for a specific period of time, to, *exempli causa*, see a doctor. Asylum and reception centres were guarded by the Army of RS. On 9 April 2020, the Decision on the Temporary Restriction of Movement of Asylum Seekers and Irregular Migrants Accommodated in Asylum and Reception Centres in RS was incorporated into the Decision on Measures during the State of Emergency, with higher legal power.<sup>191</sup> This Decision was suspended after the end of the state of emergency.

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187 The Decision on the State of Emergency is available at: <https://www.sobranie.mk/materialdetails.nsp?materialId=88a869cf-4ea8-434d-b037-e8dbb94fe810>

188 In April, there was only one asylum seeker, an Iranian national, accommodated in TC Vinojug in accordance with the government guidance.

189 “Official Gazette of the RS”, No. 32/20.

190 More about the conditions and application of measure see in: Grujic G. at al. *Review – measure restricting the freedom of movement of migrants and asylum seekers from the perspective of the European Court of Human Rights*, PrEUgovor, Belgrade, July 2020. Available at: <http://preugovor.org/Policy-Papers/1607/Review--measure-restricting-the-freedom-of.shtml>

191 “Official Gazette of the RS”, No. 53/20.

After the state of emergency ended on 6 May 2020, a new government decision was adopted – an Order Restricting Movement on Roads Leading to Asylum and Reception Centre Facilities and Grounds.<sup>192</sup> The Order prohibits access to the centre grounds and facilities and the centre residents from leaving the centres except for justified reasons (e.g. to see a doctor). Several CSOs filed an initiative with the Constitutional Court of RS to review the constitutionality and legality of the Order<sup>193</sup> and the Order was cancelled on 14 May.

By the Government Decision on the Status of Foreign Nationals in the Republic of Serbia during the State of Emergency of 24 March 2020,<sup>194</sup> the validity of all expired IDs for asylum seekers and foreigners granted asylum was extended until the state of emergency is lifted. The Decision lifted all police activities regarding the collection of biometric data until it is safe to collect them, thus suspending the registration of asylum seekers. The Asylum Office continued issuing certificates and personal documents in the prescribed manner, but the asylum procedure was suspended.

At the beginning of the second half of March 2020, the Government of **Kosovo\*** declared the state of emergency in the country. Decisions were made by the government to stop the movement of citizens at a certain time and in a certain number of persons. Regarding asylum seekers, they were placed in three AC in Kosovo\*, one in Prishtina in the “TaukBahqe” neighbourhood, where a total of 16 asylum seekers, with four families with their children, were sheltered. The conditions were at a satisfactory level, the building is close to the Prishtina city centre. AC in the village of Vranidoll accommodated mostly male asylum seekers, i.e. single boys aged 18 to 40, up to 90 people, while AC in the village of Magure up to 88 people. Freedom of movement was restricted to asylum seekers the same as to citizens of Kosovo\*. This restriction was imposed on the basis of the penultimate ID card number and the same applied to asylum seekers. Due to the pandemic, the government stopped all Mol activities, including interviews for refugee status determination.

Governments in the Federation of **BiH** and in the Republic of Srpska declared the state of disaster and emergency on 16 March 2020. Due to the COVID-19 outbreak, a set of different measures was introduced to prevent further spread of the virus, including restriction of movement of asylum seekers and migrants accommodated in reception centres. On 16 April 2020, the Council of Ministers of BiH restricted the free movement of foreigners “in order to minimise the consequences of coronavirus and to prevent the outbreak”. Under this decision, movement and stay were limited for foreigners not holding valid ID documents based on which their real identity is possible to ascertain, who stay in BiH illegally, who have expressed intention to seek asylum, and hold valid attestation of expressed intention or have filed the request for asylum in BiH. With intention of local law enforcement agencies to remove migrants from the streets, reception centres faced difficulties in particular overcrowding-making the isolation measures, including physical distance, almost impossible to implement.

Amid the pandemic situation, the Security Minister of BiH called for the urgent deportation of migrants, by saying that BiH “will not be a parking lot for migrants and that 10.000 of them will be deported”. He even instructed the director of the SFA to provide the list of “illegal, economic migrants” and to see how to deport them from BiH.<sup>195</sup> This caused massive anxiety of numerous asylum seekers in the country as they were worried that deportation might take place even before the asylum procedure was completed. As a result of the Council of Minister’s decision, authorities in Bihac started with forcible relocation of asylum seekers residing in private accommodation to Lipa, the newly opened temporary emergency facility near Bihac. All asylum claim applications and refugee status determination interviews were put on hold until 1 June 2020. Extending asylum seeker cards for persons accommodated in temporary reception centres has been delayed, and still presents a challenge for the SFA.

Due to the outbreak of coronavirus in **Montenegro**, the National Coordination Team for Infectious Diseases, adopted among other things, a temporary measure –a ban on entry of foreigners, except foreigners with permanent or temporary residence in Montenegro.<sup>196</sup> All this had an impact on the entire asylum system in Montenegro. Namely, Mol handled the accommodation, reception and other rights of foreigners seeking international protection in accordance with the order on temporary measures for the prevention of importation in the country, suppression and prevention of transmission of the new coronavirus.

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192 “Official Gazette of the RS”, No. 66/20-17.

193 Initiative Filed with the Constitutional Court to Review the Constitutionality and Legality of the Order Restricting Movement on Roads Leading to Asylum and Reception Centre Facilities and Grounds, BCHR, available at: <http://www.bgcentar.org.rs/bgcentar/eng-lat/initiative-filed-with-the-constitutional-court-to-review-the-constitutionality-and-legality-of-the-order-restricting-movement-on-roads-leading-to-asylum-and-reception-centre-facilities-and-grounds/>

194 “Official Gazette of the RS”, No. 41/20.

195 Bosnian Security Minister “We will deport all migrants from BiH”, 23 April 2020, available at: <https://www.sarajevotimes.com/bosnian-security-minister-we-will-deport-all-migrants-from-bosnia-and-herzegovina/>

196 Order on the enforcement of measures for the prevention of Coronavirus infection (Official Gazette of Montenegro No. 14/20 from 13 March 2020).

Since the day the mentioned order became effective, the Directorate for the Reception and Accommodation of Foreigners Seeking International Protection has prohibited persons residing in their accommodation facilities to leave them. Camps are being guarded by the police. In case of potential entry in the country, despite the mentioned order, foreigners are placed in AC. Interviews before the Asylum Directorate, referring to the process of granting international protection, are suspended until further notice. In early April, CA teams were granted access to camps, to ensure free legal aid to foreigners seeking international protection.

In **Albania**, the situation at the border became more difficult in the first months of 2020 due to the pandemic outbreak in the country. As a measure to protect the people inside the overcrowded National Reception Centre for Asylum Seekers in Babrru and to prevent the spreading of COVID-19, the centre stopped accepting new arrivals from the border areas. In order to improve availability and access of migrants to sanitary services in the context of the COVID-19 situation, five furnished containers were procured and installed at the registration and temporary accommodation centres for irregular migrants in Kapshticë, Korçë and Gërhhot, Gjirokastër. Translation services were only possible by telephone, and all non-essential activities in the centres and those involving a large number of people were postponed. Trips with migrants to public facilities are avoided, unless necessary.<sup>197</sup> Furthermore, as a result of the COVID-19 pandemic, there is an unprecedented demand for medical items and medicines, which are mainly supplied by CSOs. During this situation, conditioned by the strict government measures, CSOs are not able to carry out monitoring missions to verify potential violations of the rights of state authorities.<sup>198</sup> These circumstances have put migrants and asylum seekers in a more vulnerable situation. Given that, AHC has called on the institutions to verify the accommodation conditions for this category and guarantee better respect of their rights, especially their right to life and the right to health.<sup>199</sup>

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197 Available at: <https://www.caritas.eu/migrant-emergency-in-albania/>

198 Available at: <https://www.reporter.al/te-uritur-dhe-te-dhunuar-shqiperia-u-privon-refugjateve-te-drejtat-minimale/>

199 Available at: <https://ahc.org.al/trajtimi-i-duhur-mjekesor-dhe-zbatimi-i-ligjit-eshte-nje-detyrim-i-autoriteteve-shqiptare-edhe-ndaj-shtetasve-te-huaj-dhe-personave-pa-shtetesi/>

# 3. Final Remarks and Recommendations

When we compare the data and the facts from this and the previous BRMC Policy Paper, we can conclude that after certain progress in the field of migration and border management in the WB region, there was a slowdown and stagnation, which were significantly caused by the COVID-19 pandemic. Nevertheless, we are pleased to note that some of the previously submitted BRMC recommendations were accepted and implemented in the reporting period. In line with the recommendations from the first BRMC Policy Paper, further gradual harmonisation of domestic legislation with the EU acquis and further implementation of regulations continued in the WB countries during the reporting period, especially through the adoption of necessary bylaws and capacity building. Some new strategies and action plans were adopted as well, and WB regional cooperation was enhanced.

However, besides the positive developments, bearing in mind that these issues are complex and that one year is not a long enough period to implement fundamental changes, many recommendations from the first BRMC Policy Paper are still relevant and awaiting implementation. Due to the COVID-19 pandemic situation and intensified migration flows in the WB region, given the limited range of national policies, the regional approach and strengthening of regional cooperation between relevant authorities and CSOs is needed, especially through cross-sectoral cooperation. This time, we will repeat some of the recommendations from the previous period, which we believe are still relevant and a priority for implementation. In addition, some new topics have been imposed for further improvements in the conditions and procedures for the treatment of migrants moving through the WB region. Therefore, we have provided some new specific recommendations, with the special emphasis on the protection of vulnerable groups of migrants and the treatment of migrants in the context of the COVID-19 pandemic.

## General recommendations to the WB states:

- It is necessary to further improve the mutual coordination of competent authorities responsible for migration management, their regional cooperation with the authorities of the same competencies of neighbouring countries, as well as the cooperation with international and civil society organisations.
- It is necessary to intensify regional cooperation in view of exchanging information on asylum policy, migration, readmission, fight against organised crime, human trafficking, smuggling and other issues.
- Migrants who have entered the country and who want asylum should be given access to the asylum procedure.
- It is necessary to have more efficient registration of migrants and a constructive regional solution for assessing the profiles of migrants in the WB region.
- It is necessary to have some technical improvements that could easily provide accurate data on migrants and asylum seekers in a simplified manner.
- It is necessary to further improve border infrastructure and accommodation facilities of border points, increase logistical equipment and human resources, as well as further professional training.
- It is necessary to improve interpretation services, especially for rare languages, and to provide interpretation services at the borders, in order to ensure access to information about rights and procedures for migrants and refugees in the first phase.
- It is necessary to ensure that the competent authorities respect the principle of impunity for illegal entry and thoroughly examine all circumstances that could lead to the exclusion of misdemeanour or criminal liability of asylum seekers.
- The WB countries should continue their efforts to conclude readmission agreements or at least working agreements with the countries of origin of the largest number of migrants, and it would be also useful to consider the possibility of a single regional agreement of the WB countries with the countries of origin.

- An independent border monitoring system needs to be established and introduced, as written in the Return Directive. It is necessary to establish and strengthen mechanisms for independent and impartial border monitoring, as well as regional cooperation, training and exchange of knowledge and experience between border monitoring institutions and organisations.
- It is crucial to strengthen the role of independent institutions in the region in order to monitor the implementation of forced removal in the region and the implementation of measures related to the restriction of freedom of movement for migrants and asylum seekers.

## General recommendations to CSOs:

- It is necessary to establish and strengthen mechanisms for periodic exchange of knowledge and experience, as well as organise regional training for civil society organisations dealing with migration and asylum in the WB.
- In order to comprehensively and reliably monitor and present the unlawful treatment and informal return in the WB region, it is necessary for the relevant civil society organisations and international organisations that monitor and research this phenomenon to establish a regional approach and a regional methodology, as well as mechanisms for exchange, comparison and analysis of collected data at the regional level.
- It is necessary for CSOs to continue activities of psychosocial support and other activities with migrants in camps and increase their presence in reception and asylum centres.

## Specific recommendations related to the vulnerable groups:

- Efforts should be made to strengthen capacities to identify and address the needs of migrants in vulnerable situations, including, in particular UAMs.
- It is necessary to provide proper care to the most vulnerable groups of irregular migrants, develop a standard operating procedure on the treatment of UAMs and assess their eligibility for asylum.
- The process of appointing legal guardians needs to be harmonised and guardians should create the relationship of trust with their protégées. One guardian should not be appointed for a very large group of children.
- It is necessary to ensure adequate shelters for victims of gender-based violence and trafficking in human beings, as well as reintegration of victims.

## Specific recommendations related to the COVID-19 crisis:

- During the COVID-19 crisis, it is necessary to continue to provide and ensure humanitarian support to migrants and asylum seekers, as well as other needs related to clothing and footwear. In particular, it is necessary to provide resources for their protection, including the protection of employees in asylum and reception centres.
- It is necessary to continue work on raising awareness of the seriousness of the COVID-19 epidemic among camp beneficiaries, providing general information on how the virus is transmitted, travel risks and measures to protect and keep personal hygiene, which are of great importance for maintaining health both inside and outside the camps.
- It is necessary to provide additional accommodation for newly arrived migrants and preventive and symptomatic isolation capacities should be increased and upgraded to reflect the number of migrants potentially at risk.

## 4. About BRMC

The Balkan Refugee and Migration Council (BRMC) is an informal coalition of five civil society organisations from Bosnia and Herzegovina, Macedonia, Kosovo\* and Serbia. The members of the coalition are prominent CSOs with specific competences demonstrated through long-standing work in the asylum and migration policy area, both at the national and regional level. These are Belgrade Centre for Human Rights, Civil Rights Program Kosovo\*, Group 484, Macedonian Young Lawyers Association, Vaša prava BiH.

The coalition was established in December 2017 as a joint and carefully considered initiative of five organisations which had already cooperated on many occasions, also as members of the European Council on Refugees and Exiles (ECRE) and its working group for the WB. The establishment of the BRMC was strongly supported by ECRE and the Dutch Council for Refugees (DCR), as they advised the BRMC's initial strategic planning process, while DCR also secured the funds for those first steps of the initiative.

This initiative has been grounded in extensive and long-standing work of its member organisations within their respective countries but also in several ad hoc and project-based transnational efforts. However, the BRMC was conceived and established with the primary aim of providing additional value to the national work of its members, promoting common regional aspects of several major migration issues and regional cooperation in the field of asylum and migration.

### 4.1. Member organisations

#### **Belgrade Centre for Human Rights (BCHR)**

The Belgrade Centre for Human Rights (BCHR) was established by a group of human rights experts and activists in February 1995 as a non-profit, nongovernmental organisation. The main purpose of the BCHR is to study human rights and humanitarian law, to disseminate knowledge about them and to educate individuals engaged in this area. Ever since 2001, the BCHR has engaged with migration policy and practice in Serbia and Montenegro, and Serbia following the dissolution of the State Union. However, these activities have increased exponentially starting of 2012, in which BCHR became the UNHCR's implementing partner with the main purpose of providing free legal aid on asylum and integration for all those in need of it and advocating for better migration and asylum policies in the country. In addition, BCHR has brought a number of cases before the European Court of Human Rights. For its achievements in the area of human rights, the BCHR was awarded the *Bruno Kreisky Prize* for 2000. The BCHR is a member of a number of coalitions and networks such as the Association of Human Rights Institutes (AHRI), Human Rights Houses, the European Council of Refugees and Exiles (ECRE), the European Legal Network on Asylum (ELENA), etc.

#### **Civil Rights Program Kosovo\* (CRP/K)**

The Civil Rights Program Kosovo\* (CRP/K) was founded by the Norwegian Refugee Council in 1999. CRP/K continued with its activities under this framework until 2004 when since 1 December of the respective year it has functioned as an independent nongovernmental organisation. CRP/K has conducted its activities as nongovernmental human rights-based organisation and it is an implementing partner of the UNHCR, in the implementation of the projects related to free legal aid in the territory of Kosovo\*. CRP/K is an organisation that provides free legal aid and counselling for returnees, asylum seekers, displaced persons in Kosovo\*, persons at risk of statelessness and persons who are considered to be vulnerable in the realisation of their civil rights. The assistance is provided without discrimination of any kind. CRP/K represents its beneficiaries in the procedures before the court and also offers free legal advice to refugees and advocates for their integration into Kosovo\* Society.

#### **Group 484**

Group 484 is a Belgrade-based nongovernmental organisation whose core expertise is in the fields of migration and interculturalism. The organisation has 25-year-long experience in diverse migration-related projects and it has been operating in more than 70 towns in Serbia, assisted refugees, displaced persons, asylum seekers and vulnerable migrants, provided educational services to various stakeholders, managed sub-granting schemes, facilitated networking at the national and the WB level, produced numerous policy analyses and research papers, and realised

many advocacy and awareness-raising efforts related to the advancement of migrants, asylum seekers, refugees, and internally displaced persons. Group 484 representatives participate in national and international conferences dealing with migration issues, provide consultancy and training services to government and public institutions, international and local organisations.

### **Macedonian Young Lawyers Association (MYLA)**

Macedonian Young Lawyers Association (MYLA) is a nongovernmental, non-profit and non-political professional organisation of lawyers established in December 2003 aiming to strengthen the contribution of young lawyers in promoting the legal profession and fulfilling the principle of the rule of law. Primarily founded to guide young lawyers towards their legal careers from the point of graduation, during the years, MYLA has transformed itself into a unique organisation that actively protects human rights and the rule of law principle through the utilisation of the knowledge and capacity of young lawyers.

### **Vaša prava Bosnia and Herzegovina (VP BiH)**

Vaša prava BiH is a local, nongovernmental and non-profit organisation with its headquarters in Sarajevo. The association was originally founded in 1996 as a network of information and legal aid centres under the auspices of the UNHCR, with its mandate to ensure safe, legal, and dignified return of refugees and displaced persons to their pre-war homes. Registered at the state level in 2005, today VP BiH represents the largest free legal aid provider and one of the largest nongovernmental organisations in the region. Since 1996 the association has provided aid to some 450,000 refugees, returnees, displaced persons, minority groups, and vulnerable groups among the local population in legal matters such as property repossession, social, economic and cultural rights, discrimination in access to employment, utilities, education, and social welfare, as well as other human rights guaranteed by the ECHR and other international legal instruments.

## **4.2. Associates**

In order to cover the entire WB region, BRMC has established cooperation with the Albanian Helsinki Committee from Albania and the Civic Alliance from Montenegro, which are BRMC's associates and with whom BRMC has formal cooperation agreements.

### **Albanian Helsinki Committee (AHC)**

The Albanian Helsinki Committee (AHC) was founded in 1990 with its mission to promote and protect human freedoms and rights and to strengthen the rule of law in the country. AHC has provided important contribution for informing and legal education of citizens on different issues relating human freedoms and rights and organised civic forums with different topics of public interest. Over the years, AHC has filed several requests to the Constitutional Court, which have resulted mostly in successful cases as the Constitutional Court has abrogated some of the laws, partially or entirely. In order to better respect and protect citizens' rights and freedoms, AHC carries out lobbying, advocacy and monitoring activities to improve the quality of good governance by the public authorities at the central and local level.

### **The Civic Alliance (CA)**

The Civic Alliance (CA) was established in 2011 with the goal of establishing a quality and efficient civil and democratic society through capacity building and support for civic initiatives, protection and promotion of human rights, and control of state institutions. CA currently has 3 active programmes; human rights and justice programme, media programme and political studies school. From January 2019, as executive partner of the UNHCR, CA began to provide free legal aid to foreigners who have applied for international protection, as well as to foreigners who have received some form of international protection.







BALKAN  
REFUGEE AND  
MIGRATION  
COUNCIL



Ministry of Foreign Affairs of the  
Netherlands