



Common Western Balkan Migration Policy: Borders and Returns

Regional Policy Paper III

Editor:
Jelena Unijat

Group 484
Belgrade, October 2021



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Ministry of Foreign Affairs of the
Netherlands

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Foreword

This is the third 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 2020 and 2021. In the first part of the document, the main points are updates of 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 border management and migration issues 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 action, covering related national and regional challenges. In addition to the standard topics, one section of this Policy Paper is dedicated to COVID-19 related to the position of migrants, while another section is dedicated to the WB countries response to the situation in Afghanistan.

As in the first and second BRMC Policy Papers, data in this one was also 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 2020 and for the first half of 2021. 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. Our aim was to present all differences and specificities of national legislative, policy, and institutional frameworks, as well as national practices, and the analysis of 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 their support in drafting 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

Despite the COVID-19 pandemic, the flow of migrants in the Western Balkans (WB) has not been significantly reduced, but in some countries has even increased compared to 2019. Amid the pandemic outbreak of COVID-19, in 2020, North Macedonia continued to be one of the main transit routes for mixed migration movements and irregular border crossings of migrants¹ trying to reach Western European countries. Irregular migrants were predominately entering from Greece, using the border line between Greece and North Macedonia near Gevgelija, moving north towards Serbia and further to BiH or directly to the European Union (EU). Movements were also reported from Serbia to Greece, mostly of migrants who tried to move north several times but failed in crossing multiple borders throughout the WB countries. Irregular border crossing and smuggling of migrants continued throughout 2020. Despite the decline in economic activities and social life in the countries, as a result of the government imposed pandemic measures to prevent the spread of COVID-19, border security and protection activities continued with the same intensity as before the pandemic.

The health protection measures due to the pandemic scenario seriously affected the fundamental human rights of refugees and migrants. Notably, they had difficulties accessing the asylum procedure and access to the rights, while their freedom of movement was restricted during 2020. The majority of CSOs and other organisations through the pandemic reduced or cancelled their daily presence in asylum and transit centres to avoid the spread of the virus or simply following the governmental recommendations to minimise human and social contacts.

Besides the COVID-19 pandemic, 2021 brought new challenges caused by the crisis in Afghanistan. On 15 August 2021, the State Department issued a Joint Statement on Afghanistan calling on all parties to respect and facilitate the safe and orderly departure of foreign nationals and Afghans who wish to leave the country, that Afghan people deserve to live in safety, security, and dignity and that “we in the international community stand ready to assist them”. This statement has been supported and signed by more than 100 countries, including the High Representative of the European Union for Foreign Affairs and Security Policy and all WB countries except Bosnia and Herzegovina (BiH).² On 29 August, the State Department issued a Joint Statement on Afghanistan Evacuation Travel Assurances, signed by all WB countries.³

1.2. European Integration and Regional Cooperation

On 5 February 2020, the European Commission adopted and presented the new methodology for accession negotiations between the EU and candidate countries.⁴ The new methodology applies to North Macedonia and Albania as countries that will start accession talks. However, it has been also implemented in the existing negotiation frameworks with Montenegro and Serbia.⁵ In May 2020, Montenegro accepted a new methodology for the EU accession process and opened the last chapter (chapter 8), so now Montenegro has opened all negotiation chapters. The Annual Report for Serbia for 2021⁶ is the first report for Serbia that is based on the new enlargement methodology which groups chapters into clusters.⁷

On 1 July 2020, the European Commission presented to the EU Council the negotiation framework for North Macedonia and Albania laying out the guidelines and principles for their accession talks.⁸ However, Bulgaria did not approve the proposed negotiation framework in the form that was proposed by the European Commission. It spelt out its own conditions to approve the negotiation framework, which related to the inclusion of the agreement between North Macedonia and Bulgaria and the roadmap of its fulfilment as an additional Chapter 35 of the negotiation framework, recognition of the Macedonian language and refraining from providing support to the claims of the Macedonian

1 EU North Macedonia 2020 Report, available at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/north_macedonia_report_2020.pdf.

2 The Statement is available at: <https://www.state.gov/joint-statement-on-afghanistan/>.

3 The Statement is available at: <https://www.state.gov/joint-statement-on-afghanistan-evacuation-travel-assurances/>.

4 Available at: https://ec.europa.eu/commission/presscorner/detail/en/statement_20_208.

5 Available at: <https://europeanwesternbalkans.com/2020/03/27/new-enlargement-methodology-officially-endorsed-by-the-member-states/>.

6 The Report is available at: https://ec.europa.eu/neighbourhood-enlargement/serbia-report-2021_en.

7 PreUgovor: European Commission's Report Confirms prEUgovor's Findings: Numerous Activities, Weak Results in the 'Fundamentals' Cluster, available at: <https://preugovor.org/Articles/1668/European-Commissions-Report-Confirms.shtml>.

8 The draft frameworks are divided into three parts: 1) principles governing the accession negotiations, 2) substance of the negotiations, and 3) negotiations procedure.

minority in Bulgaria⁹. In June 2021, the General Affairs Council of the EU failed to reach an agreement on starting EU accession talks with both countries, even though all 27 EU ministers for Albania and 26 for North Macedonia agreed that the conditions for starting negotiations were met. Bulgaria vetoed the accession of North Macedonia and blocked further negotiations between the two countries.

In Kosovo^{*,10} in the overall context of political instability and the situation with COVID-19, there were no developments worth mentioning in terms of European integration during 2020.¹¹ Reacting to the 2019-2020 Commission Reports on Bosnia and Herzegovina,¹² Members of the European Parliament (MEPs) called on the European Council to continue backing Bosnia and Herzegovina's European perspective, "including sending a positive political message on the granting of candidate status". They recognised the steps taken by BiH to address key aspects of the Commission's Opinion on the country's EU membership application, but recalled that the effective functioning of independent and accountable democratic institutions is a prerequisite for advancing in the EU integration process, including obtaining candidate status.¹³ Reforms in the areas of democratic functionality, rule of law, fundamental rights, and public administration are crucial.¹⁴

Leaders of Serbia, North Macedonia and Albania continued activities in the scope of "Mini Schengen".¹⁵ At the meeting in Skopje on 29 July 2021, "Mini Schengen" was renamed "Open Balkans".¹⁶ The leaders signed three agreements¹⁷ and agreed to open the borders among these three countries, without border checks starting from 1 January 2023. They called other WB countries to join this initiative.

In 2021, North Macedonia and Serbia ratified the Agreement between the Government of the Republic of North Macedonia and the Government of the Republic of Serbia on Cooperation in the Field of Combating Smuggling of Migrants¹⁸ aiming to successfully fight organised smuggling of migrant's activities and enhance the cooperation between two countries in this field while respecting fundamental human rights of the migrants. According to the Agreement, the competent authorities¹⁹ from both countries will cooperate, exchange information on the routes, modus operandi, and identity of organised criminal groups involved in smuggling activities with an aim to identify the groups, their activities and prosecute them in the respective countries. Authorities will also exchange experience, good practices, and technical experience to improve the efficiency in preventing, detecting, and prosecuting activities related to smuggling. Among others, the Agreement regulates issues regarding the form of cooperation, information exchange, common investigation teams, common projects, experience exchange, cooperation upon request, communication, cooperation with other international bodies, protection of personal data, protocols for cooperation, dispute resolution between the parties, and costs.

Additionally, both countries signed an agreement between the Government of the Republic of Serbia and the Government of the Republic of North Macedonia on cooperation in the field of combating human trafficking.²⁰ The cooperation between two countries in the field of trafficking in human beings aims to prevent, identify, protect, refer, and cooperate in criminal proceedings on trafficking of human being related issues. Similarly, this agreement set up provisions for prevention, identification of victims of trafficking, initial information, voluntary return of victims of trafficking, communication, personal data protection, competent authorities, resolution of disputes, implementation protocols, as well as an information exchange for victims of trafficking, for the protection of victims, criminal proceedings, a joint project between institutions of the two countries, the organisation of training and

9 Available at: <https://www.euractiv.com/section/enlargement/news/bulgaria-spells-out-conditions-for-unblocking-north-macedonias-eu-path/>.

10 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.

11 Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/kosovo_report_2020.pdf.

12 Available at: https://www.europarl.europa.eu/doceo/document/A-9-2021-0185_EN.html.

13 Available at: https://ec.europa.eu/commission/presscorner/detail/de/COUNTRY_19_2778.

14 European Parliament News, Strong support for Bosnia and Herzegovina's integration into the European Union, 24 June 2021, available at: <https://www.europarl.europa.eu/news/en/press-room/20210621IPR06635/strong-support-for-bosnia-and-herzegovina-s-integration-into-the-european-union>.

15 AP: Balkan leaders are opening mutual borders frustrated by the behaviour of the EU, available at N1 website: <https://rs.n1info.com/vesti/ap-balkanski-lideri-frustrirani-ponasanjem-eu-otvaraju-medjusobne-granice/>.

16 As of today, Mini Schengen is Open Balkans - signed by Skopje, Tirana and Belgrade, available at N1 website: <https://rs.n1info.com/biznis/mini-sengen-od-danas-open-balkan-potpis-stavili-skoplje-tirana-i-beograd/>.

17 Memorandum of Understanding and Cooperation on Facilitating Import, Export and Movement of Goods in the Western Balkans, the Memorandum on Free Access to the Labour Market and the Agreement on Cooperation in Disaster Protection in the Western Balkans.

18 Official Gazette of RNM, No. 253/20 and Official Gazette of RS - International Agreements, No. 2/21, available at: <http://www.parlament.rs/upload/archive/files/lat/pdf/zakoni/2021/60-21%20-%20lat..pdf>.

19 The competent authorities for cooperation from North Macedonia are: Mol, the Public Prosecutor for Organised Crime and Corruption and National Unit for Fight Against Smuggling of Migrants and Trafficking in Human Beings and from Serbia are: Mol, Republic Public Prosecution and Public Prosecution for Organised Crime.

20 The agreement is available at: <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/mu/skupstina/zakon/2021/3/4>.

capacity building activities. Finally, Serbia and North Macedonia signed the Agreement on the Establishment of a Joint Miratovac-Lojane Border Crossing.²¹

Law enforcement authorities and other competent state institutions, assisted from the foreign police officers located in North Macedonia under bilateral agreements, mainly coming from EU member countries, continued to perform border activities striving to intercept irregular migrants and prevent illegal border crossing along the border with Greece and with less intensity in border lines with other countries. They also conduct regular surveillance and visits to surrounding border areas, including villages and towns through which migrants might transit. In 2020, 937 foreign police officers were deployed/assisted in common surveillance operations with the North Macedonian police from 8 countries: Czech Republic, Hungary, Poland, Austria, Croatia, Slovenia, Slovakia, and Serbia.²² The joint efforts of all involved security officials did not result in decreasing the number of migrants transiting through the country, but on the contrary, in 2020, the number of illegal entries and transitions insignificantly increased compared to the figures from 2019.

In cooperation with the EU, since 16 January 2021, a contingent of the Czech Police has been engaged on the Serbian border with Bulgaria, with the headquarters in Piroć and a police contingent of Hungarian and Austrian Police on the Serbian border with North Macedonia, with the headquarters in Vranje.²³

At the meeting of the joint Montenegrin-Bosnian Commission for monitoring the implementation of the agreement between the Government of Montenegro and the Council of Ministers of BiH on border crossings for international and border traffic, held on 10 June 2021, the establishment of joint border crosses between two states was discussed, especially the joint border cross Sitnica-Zupci in Zupci (BiH) located on the road Herceg Novi - Trebinje.²⁴

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

Albania has been the first of the WB countries to sign the European Border and Coast Guard Status Agreement with the EU. The launching of the first fully-fledged operation outside the EU which included both the European Border and Coast Guard Agency (Frontex) and Albanian border guards at the Greek-Albanian border, proved to be successful in strengthening border controls and enhancing security at the external borders of the EU and, in turn, combating migrant smuggling.²⁵ In 2021, the Ministry of Interior (Mol) signed a renewed Working Arrangement with Frontex, which is expected to further improve border procedures with regard to the situation with illegal migrants.²⁶ Following the introduction of the first Frontex Liaison Officer (FLO) to the WB, which has been based in Belgrade since 2017, the second FLO to the WB was introduced in 2021, which will be based in Tirana and cover Albania, Kosovo* and North Macedonia, whereas the three other WB countries will remain under the coverage of the first FLO.²⁷

Agreement between **Montenegro** and the EU about activities conducted by Frontex was signed in October of 2019 and came into force on 1 July 2020.²⁸ The implementation of the first joint operation according to the Agreement began on 15 July when Frontex deployed several officers to support Montenegrin border police officers on the border with Croatia. Officers deployed by Frontex perform their activities in coordination with Montenegrin officers, in their presence. On 14 October 2020, Frontex initiated the operation on Montenegrin borders in order to combat the smuggling of drugs, migrants, human trafficking, and terrorism. Frontex will provide air support to help Montenegrin patrols combat cross-border crime on Montenegrin naval borders.

21 Official Gazette of RNM 257/2019: <https://www.slvesnik.com.mk/Issues/ea02b5c825c546d8a9ff263d76e1bcb6.pdf>.

22 Mol answer No. 16.1.2-208/1 from 12 February 2021. Yet, in its Annual Report Mol presented smaller number of foreign police officers (872) that had been engaged in border surveillances and protection. The report is available at: https://mvr.gov.mk/Upload/Editor_Upload/Godisen%20izvestaj/%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%2020%20kopi.pdf.

23 Mol, Report on the implementation of the Strategy for Combating Irregular Migrations for the period 2018-2020, p. 10. Available at: <http://www.mup.gov.rs/wps/wcm/connect/cf979b30-12ae-42dd-89dc-4d1734ec6025/lregularne+-+izvestaj+18-20-cir.pdf?MOD=AJPERES&CVID=nEp45e->.

24 Available at: <https://www.gov.me/dokumenta/459749a3-b89e-4a74-9997-79e326327a4f>.

25 European Commission Report Albania 2020, available at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/albania_report_2020.pdf.

26 Available at: <https://mb.gov.al/2021/03/17/nenshkruhet-marreshja-mes-mb-e-frontex-ministri-cuci-shqiperia-kandidat-i-denje-per-tu-bere-pjese-e-be/>.

27 Available at: <https://frontex.europa.eu/media-centre/news/news-release/frontex-and-albania-strengthen-their-partnership-o9vW2l>.

28 Available at: <https://www.gov.me/dokumenta/9c2c0256-d519-460c-8ac6-8a5c5b579019> and <https://www.paragraf.me/dnevne-vijesti/02062020/02062020-vijest3.html>.

The Integrated Border Management Strategy 2020-2024²⁹ states that the cooperation of the border police with Frontex took place in accordance with the signed working arrangement. Trainings were conducted in line with the joint border police training manual. Additionally, the National Frontex Point of Contact (NFPOC) has been established for cooperation with Frontex. According to the Strategy, the cooperation with Frontex is constant and is accomplished through WB-RAN (Western Balkan Risk Analysis Network), within which Frontex and member states of the WB-RAN network compose annual AR for WB. In cooperation with Frontex, a brochure on common risk indicators for foreign terrorist fighters was made and delivered to all border crossings for use. The exchange of information and data has been established with the surrounding countries, but further improvement of cooperation is needed. In addition, close cooperation has been established between the border police risk analysis unit and Frontex, as well as the criminal police, customs, and neighbouring countries in order to prevent, combat, and detect cross-border crime.

In 2019, **Serbia** concluded Status Agreement with Frontex³⁰ and the entry into the force was finalised on 1 May 2021 by the adoption of the Law on Ratification of the Status Agreement between the Republic of Serbia and the European Union on Actions Implemented by the European Border and Coast Guard Agency in the Republic of Serbia.³¹ Serbia is the third WB country to host a fully operational Frontex operation, with 44 standing corps officers from 14 countries assisting in the detection of criminal activities such as people smuggling, human trafficking, document fraud, smuggling of stolen vehicles, illegal drugs, weapons, and excise goods, as well as potential terrorist threats.³² At Serbia's request, the number of police is scheduled to increase to up to 87 officers in the following months. The operation will take place near Serbia's border with Bulgaria, where illicit border crossings have increased in recent years. The operation will be supervised from Frontex's headquarters in Warsaw, Poland, with the Local Coordination Centre based at the Gradina Border Crossing Point. The standing corps officers stationed in Serbia will also participate in EMPACT (European Multidisciplinary Platform Against Criminal Risks), an EU-led security effort aimed at identifying, prioritising, and responding to threats presented by organised and serious international crime. The initiation of the "Joint Operation Serbia - Land 2021" is another significant step in the execution of the European Union-Serbia Status Agreement.

As described in the BRMC Policy Paper II, **North Macedonia** initialled the Status Agreement with the Frontex to enable close cooperation, coordination, and deployment of Frontex guards in the country. Three years later, the agreement has not yet been signed. Nevertheless, Frontex has continued to be present in the country and conduct its activities within its mandate as was the case in previous years. According to the Chief of the **Kosovo*** Border Police, the cooperation with Frontex is in the operational aspect, while in the part of migration they share statistics and reports. Some Kosovo* Border Police officers are in continuous training in EU countries, mainly with the presence at airports. **BiH** has not signed and ratified the status agreement with the EU yet but participates in the Western Balkan Risk Analysis Network (WB-RAN) led by Frontex.

1.4. Activities of International Mechanisms in Western Balkan Countries

In the WB countries during 2020, there were no significant activities of international mechanisms and bodies in the field of migration. This is, for the most part, affected by the COVID-19 crisis. Most activities were conducted in BiH, Albania, and Kosovo*.

In her letter to the Chairmen of the Council of Ministers of **BiH** and the Minister for Security of BiH dated 7 December 2020, the Council of Europe Commissioner for Human Rights Ms Dunja Mijatović emphasised that authorities of BiH must ensure as a matter of urgency that basic needs such as adequate accommodation and access to health care, food, water, and clothing are met regardless of the legal status of the persons involved, or whether they are considered to be in transit or intend to stay in the country.³³ She also stressed that under its *non-refoulement* obligations BiH must ensure that all persons who wish to seek asylum in the country have the possibility of doing so. All asylum claims need to be considered on their own merits under fair and efficient asylum procedures, taking into account individual circumstances and up-to-date country of origin information. While waiting for their claims to be processed, asylum seekers need to have access to support and services that enable them to live in dignity.

29 Mol: Strategy for Integrated Border Management 2020-2024, available at: <https://www.gov.me/dokumenta/69fe29fd-c291-46c8-ab18-d5c621410ef0>.

30 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/>.

31 Official Gazette of the RS - International Agreements, No. 3/2021-19.

32 More details available at: <https://frontex.europa.eu/media-centre/news/news-release/frontex-expands-presence-in-western-balkans-with-operation-in-serbia-9WRMiW>.

33 The Council of Europe Commissioner for Human Rights letter dated 7 December 2020, available at: <https://rm.coe.int/commhdh-2020-30-letter-to-the-authorities-of-bosnia-and-herzegovina-en/1680a099b6>.

The Council of Europe Special Representative for Migration and Refugees, Mr Drahoslav Stefanek, led a mission to BiH on 24-30 January 2021. On 25 January 2021 he visited temporary reception centres in Una-Sana Canton (USC) that host numerous migrants and refugees and talked with representatives of local and cantonal authorities on the current migrant/refugee situation. By the end of his visit, Mr Stefanek visited TRC Ušivak in Hadžići and met the state-level political officials, including ministers of the Ministry of Security (MoS), the Ministry of Human Rights and Refugees, and the Ministry of Foreign Affairs. Association Vaša prava BiH also had the opportunity to meet members of Mr Stefanek's delegation and discuss current challenges in accessing asylum procedure, but also the general issues around the migrant/refugee population.³⁴

On 18-19 February 2021, the EU Commissioner for Home Affairs, Ms Ylva Johansson, visited BiH to discuss cooperation in the field of migration and migration management systems of partner countries. In BiH, the Commissioner met with the Chairman of the Council of Ministers, the Minister of Security, the Prime Minister of the USC, and the Mayor of Bihać. She visited the Lipa Camp together with representatives of MoS, IOM, other UN agencies and partners. She urged BiH to manage migration properly and share the burden of its migrant crisis equally across the country if it is to stay on the path to EU membership.³⁵

In February 2021, the EU Commissioner for Home Affairs also visited **Albania** to discuss EU cooperation, as well as the migration management system in the country. The Commissioner visited Kakavia, where she praised the joint effort of Frontex and the Albanian border guards in securing safer and more controlled border crossing points.³⁶ In the follow-up to the findings published by the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on Karec Closed Reception Centre for Foreigners, the Albanian authorities published their response, where it was noted that some of the recommendations made by the CPT were followed through the provided training "Prevention of torture and ill-treatment of detainees through the health service" with the medical staff of the centre.³⁷ A delegation of the CPT carried out a visit to **Kosovo*** on 6-16 October 2020.³⁸ Among other institutions, the delegation for the first time visited the immigration detention facility - Vranidoll Detention Centre for Foreigners.³⁹

1.5. Changes in the National Legal Frameworks

Throughout 2020, there were no substantial amendments or changes of policies and regulations concerning migration management in **North Macedonia**. The activities in this regard were related to the adoption of some minor changes of technical nature or the adoption of bylaws. North Macedonia formally acceded to the 1961 Convention on the Reduction of Statelessness.

Concerning the basic regulation for foreigners, in September 2020 the government submitted a proposal to the Parliament of North Macedonia to amend the Law on Foreigners.⁴⁰ The interventions aim at providing solutions for overcoming the identified practical problems, improvement of articles and harmonisation with other laws, especially the Law on Misdemeanours in terms of the amounts of fines. With the interventions, the authorities aim to regulate sanctions not only for illegal entry but also for illegal exit from the country, registration of the prohibition of entry in the country in the passport of the foreigner, harmonisation with the law that regulates property and real estate only for citizens of the EU as a ground to obtain residence in the country, reframing the conditions for obtaining residence if the person does not oppose threat to the national security, public order, international relations, public health and national security, and those associated with sanctions and fines in case of breach of the provisions of this law. These amendments have yet to be adopted by the parliament in the next period. In January 2021, the draft law got the green light from the preliminary Committee for Defence and Security and the Committee for Legislative Matters.

34 InfoMigrants, Council of Europe representative for refugees visits Bosnia, 27 January 2021, available at: <https://www.infomigrants.net/en/post/29890/council-of-europe-representative-for-refugees-visits-bosnia>.

35 Info Migrants, EU commissioner tells Bosnia to better manage migration, available at: <https://www.infomigrants.net/en/post/30358/eu-commissioner-tells-bosnia-to-better-manage-migration>.

36 Available at: https://ec.europa.eu/neighbourhood-enlargement/news/migration-commissioner-johansson-bosnia-and-herzegovina-and-albania-2021-02-16_en.

37 Available at: <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-albanian-response-to-the-report-on-the-2018-visit>.

38 Available at: <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-visits-kosovo->.

39 The CPT Report on the visit to Kosovo* is available at: <https://rm.coe.int/1680a3ea32> and Response to the Report is available at: <https://rm.coe.int/1680a3eb76>.

40 The proposal for amending the Law on Foreigners is available at: <https://www.sobranie.mk/materialdetails.nsp?materialId=bd6b2fe3-b89a-4114-94fd-81696f713014>.

On 7 April 2020, Mol adopted the House Rules of the Reception Centre for Foreigners⁴¹ as prescribed with article 198 of the Law on Foreigners. The bylaw sets up the rules for the reception and accommodation of foreigners within the Centre for Foreigners and the behaviour of foreigners during their stay within the centre. In the beginning, it was prescribed that every foreigner will undergo a medical examination before being allowed in the centre. The foreigners are immediately informed about the rules and procedures that apply to this facility, their rights and obligations, the right to exercise communication with the respective embassy of their country of origin, the right to contact an attorney or use legal aid, and the right to appeal against the decision for detention within this facility. Prior to admitting, the foreigner will be examined whereas their personal things will be temporarily seized. Based on the regulations, the foreigner is allowed access to fresh air for 2 hours a day, while concerning legal aid, the centre permits also contact with international or local CSO that provide legal aid within the centre.

The Rulebook for Travel and Other Documents for Foreigners,⁴² approved on 14 May 2020 prescribes rules of issuing travel and other documents to foreigners, the manner of reporting disappearances, as well as lost, stolen, or sold travel and other documents, the application form for requesting travel and other documents, and evidence keeping for issued travel and other documents. The foreigner seeking any of the documents stipulated in the Rulebook (travel document, passport, travel document for foreigners, diplomatic ID card, etc.) must provide justification for the request and provide evidence that will support that justification.

Lastly, in January 2021, the Ministry of Labour and Social Policy (MLSP) adopted the Programme on Integration of Persons with Recognised Protection in North Macedonia for 2021.⁴³ With the programme, the MLSP aims to facilitate the integration process of persons with protection status in the area of provision of accommodation, employment and vocational training, health insurance, education, social welfare, community engagement and integration process management. With the programme, the MLSP also provides financial assistance for the accommodation and rent of premises for refugees with protection status. The person with international protection in the country also has to submit a formal request to the MLSP for voluntary participation in the integration process in the country. Finally, the institution will develop a local individual integration plan for the person and their family. This programme for integration is renewed annually.

According to the European Commission Report **Albania** 2020, the legislation on migration has been largely aligned with the EU acquis. In compliance with the recommendations made by the EU via previous reports, the new Law 10/2021 "On asylum in the Republic of Albania" was adopted in February 2021.⁴⁴ Albanian authorities worked closely with the EU and the UNHCR. The novelties presented by this law are as follows: increasing cooperation among the institutions, functionalisation of an asylum registrar database as a product of the initial database created in 2018 and cooperation with international organisations that might offer their assistance in line with the provisions of the Albanian National Strategy on Migration and its Action Plan. In addition, new rules and procedures for asylum seekers are provided by the law, by keeping into consideration the numerous problems that have appeared with the Open Centre for Asylum Seekers. Aside from the right to move freely from the moment of submitting an official request for asylum, the rules and limitations to this right are also foreseen in cases of grave violations to the life and health of the living community or the area in which the centre is located. Further on, the law provides that legal aid is to be guaranteed by the state for asylum seekers and citizens enjoying international protection, which has so far been exclusively offered by international organisations.

Article 28 of the Law "On asylum in the Republic of Albania" details the timeline of the procedures for granting the status of international protection where the entire procedure is foreseen to last six months from the day of the official request. This term can be further prolonged by three additional months when the presented case is complex and when a huge number of aliens or stateless persons have handed in their requests at the same period. The maximum term to provide a final verdict is 21 months from the day of the official requests. These procedures are generally evaluated to be extremely prolonged.

Representatives of the UNHCR have noted their concerns in meetings with representatives of Mol on the provision of social protection programmes to asylum seekers and refugees from the moment of their official application, seeing that they are currently not among the cited beneficiaries of the Law 57/2019 "On social assistance in the Republic of Albania" and the Law 121/2016 "On the services of social care in the Republic of Albania". These proposed amendments

41 Official Gazette of RNM 93/2020, available at: <https://mvr.gov.mk/Upload/Documents/pravilnik%20kuken%20red%2093-20.pdf>.

42 Official Gazette of RNM 124/2020, available at: <https://mvr.gov.mk/Upload/Documents/pravilnik%20patni%20ispravi%20na%20stranec%20124-20.pdf>.

43 "Official Gazette of RNM", No. 7/2021.

44 Law No. 10/2021 "On asylum in the Republic of Albania", available at: <https://www.parlament.al/Files/Akte/20210203145606ligj%20nr%20%2010%20dt%20%201%202%202021.pdf>.

have yet to be completed by the Albanian legislature, although they are required to legally fulfil all of the provisions of the newly adopted Law 10/2021 "On Asylum in the Republic of Albania".

During this reporting period in **Serbia**, there were legislative preparatory activities for the amendments to the existing Law on Foreigners, Law on Asylum and Temporary Protection and Law on Employment of Foreigners. The biggest changes are related to improved access to the right on employment of the certain categories of foreigners, including asylum seekers, refugees, victims of the trafficking in human beings etc.

In **Montenegro**, the Rulebook on Amendments to the Rulebook on Appearance and the Content of the Forms and the Manner of Issuing Documents for a Foreigner who has Applied for International Protection, an Asylum Seeker, and a Foreigner under Subsidiary Protection⁴⁵ was adopted in December 2020. When it comes to documents intended for persons from the system of international protection, the current documents have a solid security standard, but the Ministry has taken action to supplement it with some additional features and get the best possible security concept. In accordance with that, they are following international normative standards, through regulations and directives of the EU and technological achievements regarding issuing identification documents, which certainly reduces the possibility of their misuse and falsification. Additionally, in October, MoI adopted the Rulebook on the Conditions of Accommodation and the Manner of Providing Accommodation for Asylum Seekers and Foreigners under Subsidiary Protection.⁴⁶

In 2020, the Administrative Instruction on Refusal of Entry into the Republic of **Kosovo*** was adopted.⁴⁷ According to the instruction, refusal of entry to a foreigner at a border crossing point will be made by the Border Police Officer, issuing a decision with the justification for the refused entry. The person whose entry was refused has the right to appeal within eight days to the Appeal Committee or to the diplomatic or consular mission after the receipt of the decision, but the appeal does not have a suspensive effect on the decision to refuse entry.

MoS of **BiH** announced the upcoming changes to the Rulebook on Asylum. Preparatory activities for the adoption of the new Law on Border Control are currently being undertaken.⁴⁸ The working group has been created with an aim to harmonise the current legislative framework with the EU acquis.

1.6. Changes in the National Policy Frameworks

In the WB countries, through 2020, some of the existing documents expired and the institutions are currently working on developing new policies that will cover the upcoming period. At the same time, some new documents were developed and approved during 2020.

In **North Macedonia**, the Resolution on Migration Policy and Action Plan for 2015-2020, as the main policy document in this field that provides general guidelines for harmonisation of the country's legislation with the EU and reforms in this area, expired at the end of 2020. Authorities, with the assistance of the International Organization for Migration (IOM), are working to develop a new strategy for migration policy in the country. When developed, it will be the third strategy of this kind adopted by the authorities in the country. The National Strategy for Combating Trafficking in Human Beings and Illegal Migration (2017-2020) has also expired and currently a new document for the period 2021-2025 is pending its approval. The Strategy for Integration of Refugees and Migrants in North Macedonia (2017-2027) is still awaiting adoption as there is no political will to move forward with it. This document is in its fourth year that is still in the draft version, not approved by the institutions. The reasons why this very important document has not been adopted are unclear for the time being.

Relevant strategic documents developed and adopted in 2020 are mainly associated with the work of MoI of North Macedonia. One of the strategic priorities set in the Strategic Plan of MoI 2021-2023⁴⁹ is the prevention of cross-border crime and illegal migration, readmission control and realisation of the right to asylum. In its analysis of results achieved in 2020,⁵⁰ it emphasises the continuous cooperation with Frontex through information exchange and realisation of two operational activities, as well as the selection of the company to build a new reception centre for foreigners. In the upcoming period, MoI will focus on improving its efficiency, reducing the number of illegal border crossings,

45 Official Gazette of Montenegro, No. 72/2017 and 115/2020.

46 Official Gazette of Montenegro, No. 105/2020.

47 Administrative Instruction (MIA) No. 04/2020 on Refusal of Entry into Kosovo* is available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=30997>.

48 Available at: <http://www.msb.gov.ba/vijesti/saopstenja/default.aspx?id=20559&langTag=bs-BA>.

49 Strategic plan is available at: https://mvr.gov.mk/Upload/Editor_Upload/210316%20SP%20na%20MVR%202021-2023.pdf.

50 Report for implementation of the workplan for 2020, available at: https://mvr.gov.mk/Upload/Editor_Upload/210303%20Godisen%20izvestaj%202020-1.pdf.

smuggling of migrants and trafficking in human beings, increasing the activities for interception of illegal migrants, and modernising the equipment for border surveillance. The work plan for the implementation of the strategy for 2021 estimates the beginning of the construction activities for the new reception centre for foreigners, which is planned to be finished by 2023.⁵¹ Mol also adopted a new Ethical Code⁵² for the behaviour of the employees of Mol in all stages in communication with the individuals, regardless of their social status, considering the highest standards of respecting human rights and personal dignity, equal treatment, non-discrimination and without any personal benefit.

Finally, IOM and other UN agencies are engaged with the authorities in developing the Migration Profiling Index in North Macedonia. Some initial activities have already taken place. The document should provide more insight into the driving factors for all types of migration, the impact of migration and migration management that will help authorities improve their planning of the country's policies and activities. With the assistance of IOM, the National Commission for Combating Trafficking in Human Beings and Illegal Migration has drafted the National Strategy and the National Action plan for Fight against Trafficking in Human Beings and Illegal Migration for the Period 2021- 2025.⁵³

In **Serbia**, the Instructions on Standard Operating Procedures (SOP) for dealing with irregular migrants and foreigners who express an intention to apply for asylum was adopted on 29 September 2020.⁵⁴ SOP has improved the process of registering illegal migrants in Serbia, monitoring the flow of this category of persons through the territory of Serbia and has enabled a more efficient procedure of their return to the country from which they entered Serbia or the country of origin, through the readmission procedure. The Response plan in case of a mass influx of migrants was updated and adopted by the Government on 30 April 2020.⁵⁵ In June 2021, Mol prepared the Implementation Report of the Strategy for Combating Irregular Migration in the Republic of Serbia for the period from 2018 to 2020. It is also important to mention that in Serbia the new action plan for integrated border management (IBM) strategy has not yet been adopted.

In late 2020, **Albania** adopted the Strategy against Organised Crime and Serious Crimes 2021-2025⁵⁶, which follows the same lines as the previous two Cross-sectoral Strategies for the Fight against Organised Crime, Illegal Trafficking and Terrorism 2008-2013 and 2013-2020. The smuggling of migrants is directly targeted by Specific Objective 1.2. "Crack down on illegal trafficking", which includes migrant smuggling across borders. The strategy includes improving the lines of cooperation among the structures that detect instances of criminal organisations and the ones that strike them and updating national legislation in accordance with international instruments.

On 16 December 2020, the Intersectoral Strategy on Integrated Border Management 2021-2027 and its Action Plan 2021-2023 was prepared and adopted by the Albanian government.⁵⁷ The prevention of and crack-down on serious crimes of an international character like illegal trafficking, migrant smuggling, and terrorism, is one of the strategy's main aims. In addition, it also targets the creation of an information system to facilitate the identification of migrants and asylum seekers for the relevant institutions, improve the accommodating infrastructures, improve border management capabilities, as well as improve conditions in the closed centre in Kareç.

Following the adoption of the National Strategy on Migration and its Action Plan 2019-2022, the Monitoring Report on the Implementation of the Action Plan of the National Strategy on Migration 2019-2022 for the period June 2019 - June 2020 was published.⁵⁸ It is noted that the majority of the activities planned to be conducted within 2020 were effectively underway, including the strengthening of institutional capacities with the help of IOM and the preparation of a report on shortcomings of migration statistics by INSTAT (yet to be published). In June 2021, a contingency plan on mixed migration flows was announced, aimed at guaranteeing the respect of human rights, especially those of migrants and asylum seekers in Albania through improving capacities for identifying, processing, and granting services for migrants and asylum seekers. The ultimate aim of the contingency plan, according to the Vice Minister of the Mol, is the creation of a safe environment for all migrants.⁵⁹

51 Available at: https://mvr.gov.mk/Upload/Editor_Upload/210318%20GP%20na%20MVR%202021%20%D0%BD%D0%B0%D1%98%D0%BD%D0%BE%D0%B2.pdf.

52 Mol Ethical Code is available at: [http://mvr.gov.mk/Upload/Documents/ETICKI%20KODEKS%20\(1\).pdf](http://mvr.gov.mk/Upload/Documents/ETICKI%20KODEKS%20(1).pdf).

53 The strategy and the action plan are currently being assessed from the government of North Macedonia and it is expected to be approved and adopted in the next period.

54 [Report on the implementation of the revised Action Plan for Chapter 24, point. 1.1.1](https://mup.gov.rs/wps/wcm/connect/6158b60e-d734-4b25-85f4-2012a3ee2fe2/Final_SRB+I+izvestaj.pdf?MOD=AJPERES&CVID=nzgAW85), available at: https://mup.gov.rs/wps/wcm/connect/6158b60e-d734-4b25-85f4-2012a3ee2fe2/Final_SRB+I+izvestaj.pdf?MOD=AJPERES&CVID=nzgAW85.

55 *Ibid.*, point 2.1.2.

56 Strategy against Organised Crime and Serious Crimes 2021-2025, available at: <https://mb.gov.al/wp-content/uploads/2021/01/STRATEGJIA-KUND%C3%8BR-KRIMIT-T%C3%8B-ORGANIZUAR-DHE-KRIMEVE-T%C3%8B-R%C3%8BND-2021-2025-DHE-PLANI-I-VEPRIMIT-2021-2022.docx>.

57 It has yet to be published on the official website of the Ministry of Internal Affairs.

58 Monitoring Report on the Implementation of the Action Plan of the National Strategy on Migration, available at: <https://mb.gov.al/plane-dhe-strategji/>.

59 Available at: <https://ata.gov.al/2021/06/10/migracioni-i-paligjshem-shqiperia-me-plan-kontigjence-per-garantimin-e-te-drejtave-te-njeriut/>.

During 2020, the Final Report on the Implementation of the Strategy for Integrated Migration Management in **Montenegro** for the period 2017-2020 was adopted.⁶⁰ The final report presents the results of activities and the degree of fulfilment of obligations from the annual action plans and provides information on the overall progress in achieving the goals of the strategy, as well as recommendations for the next planning cycle in this area.

As a continuation of these activities, during 2020, a Draft Strategy on Migration and Reintegration of Returnees in Montenegro was prepared for the period 2021-2025, with the Action Plan for 2021 and 2022.⁶¹ This strategy is an expression of continuity with previous strategic documents in this area, which were adopted as planning documents by the Government of Montenegro, in a way that they represent the third strategic document in this field, with previous strategies being adopted separately by areas (one in the field of migration, and the other in the field of readmission of returnees) for the periods 2011-2016 and 2016-2020. The goal of this strategy is to recognise that the protection of particular groups, in the context of mixed movements (e.g., refugees) cannot be conducted isolated from broader trends, policies, and practices that shape global mobility. Keeping that in mind, this strategy aims to: secure that the policy of managing migration, practice and discussions take into consideration international duties of Montenegro towards people seeking international protection, refugees, and stateless persons, and also to recognise the established legal framework for the protection of these persons; help state authorities cope with the challenges in the field of international protection (asylum) and mixed migration in a way to keep in mind the need to protect a certain category of people; help in identifying trends in the field of migration, trafficking, and other mixed movements and early recognition of challenges and preparing reactions to them, and; secure public order and peace by detecting safety risks early.

At the session held on 16 December 2020, the Council of Ministers of **BiH** passed the Decision establishing the Working Group for developing the Strategy in the Area of Migration and Asylum and Action plan for the Period 2021-2025.⁶² The new strategy will contain general guidelines in the area of migration and asylum in BiH. The current situation including institutional and legal framework will be covered, goals, measures and activities identified, human and material resources defined in the area of legal migration and asylum, but as well as in the area of irregular migration.

1.7. Changes in the National Institutional Frameworks

Last year was very challenging for all institutions in the migration management system. Bearing in mind that in 2020 all WB countries imposed some measures to restrict freedom of movement, both for their own citizens and for migrants and asylum seekers, reception facilities and authorities were under great pressure. A lot of asylum and reception centres were overcrowded with an inadequate scope of services and activities in them.

As the central institution, Mol is in charge of overall aspects of migration movement management, starting with surveillance and protection of borders of **North Macedonia** and performing border controls, fighting the smuggling of migrants and trafficking in human beings, implementation of readmission agreements, removing foreigners, admitting citizens from other countries, management of the Reception Centre for Foreigners and admitting or rejecting irregular migrants in transit centres in Vinojug and Tabanovce.⁶³ Different units within Mol are with a different set of work activities and they all fall within the Department for Border Affairs and Migration. Within this department, there is a mobile unit for the suppression of cross-border crime and compensation, responsible for the territory of North Macedonia, with mobile teams from the border line going deeper into the territory. The Sector for Suppression of Organised and Serious Crime through the units for combating trafficking in human beings and smuggling of migrants is responsible for conducting investigations of the cases of trafficking in human beings and smuggling of migrants. On the other hand, there are also regional centres for border affairs⁶⁴ geographically divided to coordinate the activities with the borders of each of North Macedonia neighbouring countries. The National Commission for Combating Trafficking in Human Beings and Illegal Migration was active in organising training for a large number of first-line civil servants to help them implement the standard operating procedures (SOP) for trafficking in human beings.

60 Report was published on Mol official website: <https://www.gov.me/dokumenta/c73b4fde-57df-4ca8-8b52-8792dcdec82a>.

61 Draft Strategy is available at: <http://eusluge.euprava.me/ServiceImages/eParticipacije/1beda55c-ed75-4754-b934-f7dd79e5d9c0.pdf>.

62 MoS of BiH has started drafting a new strategy in the field of migration and asylum, available at: <http://msb.gov.ba/vijesti/saopstenja/default.aspx?id=20473&langTag=bs-BA>.

63 Although the transit centres are managed from the Centre for Crises Management while the police is there only to provide security, in practice all irregular migrants accommodated or using services in the transit centres Vinojug and Tabanovce must be approved by Mol.

64 Four (4) regional centres: Regional Centre North, East, South and West.

Within the Service for Foreigners in **Serbia**, an extension of the existing shelters was planned. As specified in Padinska Skela within the MADAD⁶⁵ project, by building another facility, which will be connected with the existing shelter by 60 additional places. The construction began at the beginning of September 2020 and the scheduled deadline is by the end of 2021. It is planned that, after the completion of the project MADAD (end of 2021) for these facilities to be in the function of providing primary reception for irregular migrants. The Shelter for Foreigners in Plandište and the Shelter for Foreigners in Dimitrovgrad are facilities intended to be in the function of providing primary reception for irregular migrants and their capacity extension is pending. In 2021, several receptions and asylum centres were temporarily closed due to the renovation and improvement of accommodation capacities, including AC Banja Koviljača, RC Bujanovac, RC Vranje, RC Pirot. The reopening of the temporarily closed centres has been announced for early autumn. The reception centres Obrenovac and Vranje became asylum centres.⁶⁶ The Serbian Ombudsman, as the National Preventive Mechanism for Torture Prevention (NPM), continued to monitor asylum and reception centres. During 2020, the Ombudsman visited three centres: Obrenovac, Adaševci, and Bogovađa.⁶⁷

Serbian NPM recommendations

NPM recommendations from the Report on the visits to PC Obrenovac and Adaševci were aimed mostly at expanding accommodation capacities and improving maintain hygiene in the centres. During the visits, the NPM interviewed a few refugees who allege mistreatment included taunts, threats, slaps, gunfire, as well as striking with rubber sticks, metal rods, and wooden poles. Few refugees complained about security workers pushing, slapping, kicking, or yelling at them while distributing masks, gloves, hygiene kits, as well as threatening them with physical violence and insulting them that they will be transferred to another camp. Some also pointed out that some of the employees, whose names they did not want to say, were disturbing blankets and hygiene items packages for money.

The National Preventive Mechanism for Torture Prevention (NPM) continued to monitor Serbian borders as well, including: North Macedonia (February 2021)⁶⁸, Bulgarian border (February 2021)⁶⁹, the border with Croatia (March 2021)⁷⁰, Nikola Tesla Airport (October 2020) and Constantin the Great Airport - Niš (February 2021)⁷¹. The draft Serbian Law on the Ombudsman envisages that the ombudsman will become the national rapporteur in the field of trafficking in human beings.⁷²

In **Albania**, currently there are two temporary reception centres located along the Southern and South-Eastern border of the country,⁷³ two social centres in Gjirokastrë and Erseka⁷⁴ where families composed of women and children, unaccompanied minors and migrants with disabilities are housed, as well as the National Centre for Asylum Seekers located in Babrru, wherein asylum seekers are accommodated. Migrant flows in Albania are currently almost 11 times higher than what they were 3 years ago⁷⁵ and in total, there are only 490 beds for migrants in the Republic of Albania. The National Centre in Babrru has faced overpopulation several times and migrants report that authorities do not grant them immediate accommodation when they request it.⁷⁶ Currently, the Asylum Centre in Babrru can host 240 people as per its renovation in 2019. The European Commission Report 2020 notes that there is a need to create separate facilities for unaccompanied minors, women at risk, and people with serious medical conditions. In addition, it holds that the existing centres should update their security and accommodation conditions up to living standards.⁷⁷

65 Regional Trust Fund of the European Union in response to migrant crisis – MADAD SDC: Support to the migration management in the Republic of Serbia 2016-2019.

66 Official Gazette of RS, No. 62 of 17 June 2021.

67 National Prevention Mechanism: Monitoring the treatment of migrants and asylum seekers visit report reception centres in Obrenovac and Adasevci, available at: <https://npm.rs/attachments/article/934/lzvestaj.pdf> and Report on visits to the institutions for the reception of UAMs, available at: <https://npm.rs/attachments/article/1063/lzvestaj.pdf>.

68 Available at: <https://www.ombudsman.rs/attachments/article/7189/lzvestaj.pdf>.

69 Available at: <https://www.ombudsman.rs/attachments/article/7178/lzvestaj.pdf>.

70 Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7016-np-z-ruzi-ivn-s-i-pr-c-nj-p-s-up-nj-pr-igr-n-i-i-r-zi-ci-zil-n-gr-nic>.

71 Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7177-r-dr-ns-n-in-v-li-i-u-nishu-p-s-upi-p-svi-pr-p-ru>.

72 Available at: <https://www.paragraf.rs/dnevne-vesti/050521/050521-vest11.html>.

73 The Temporary Centre near Kapshtica and the Temporary Centre near Gerhot, Gjirokastrë.

74 Financially supported by the UNHCR.

75 Data on Migration and Asylum 2015-2020, available at: https://mb.gov.al/wp-content/uploads/2021/02/Të-dhëna-për-migracionin-dhe-Azilin_2015-2020.pdf.

76 Available at: <https://www.zeramerikes.com/a/5470608.html>.

77 These concerns were also enforced by the EU Ambassador to Albania, Luigi Soreca, who noted that the living arrangements in the centre in Babrru need to be improved, followed by Pablo Zapata, the representative of the UNHCR in Albania, who noted that Albania needs to raise its institutional capabilities following the immense increase in the flow of migrants to the country. Available at: <https://faktoje.al/kushtet-dhe-te-drejtat-e-refugjateve-ne-shqiperi/>.

Aside from capacities, human resources in these institutions are also lacking in numbers, but trainings conducted by international organisations in line with the National Strategy on Migrants have been frequent. According to the new Law "On asylum", the National Commission for Asylum and Refugees restructured its composition and status. It is the leading administrative organ for reviewing administrative appeals against decisions taken by the responsible authority for asylum and refugees and it is composed of its head and 4 other members, all holding a 4-year term with the right to be reappointed.

During 2020, **Kosovo*** reception authorities in Magure and Vranidoll⁷⁸ were faced with a very large number of asylum seekers, which posed the need to put into function the building of the Readmission Centre in Taukbahce (Pristine), to be used as the third Asylum Centre. Female applicants, families with children, UAMs and other applicants considered more vulnerable were accommodated in AC Magure and Taukbahce, while adult single males were accommodated in Vranidoll. During the pandemic situation, from March 2020 till August 2020, the Detention Centre for Foreigners in Vranidoll served as a quarantine centre for all migrants and asylum seekers in Kosovo*.

In **BiH**, the Border Police reiterated that its agency continues to face the staffing shortage and an increasing number of tasks and challenges with regard to the migrant situation. Apart from that, there is a lack of material and technical capacities.⁷⁹ Emergency tent centre "Lipa" in USC was open in April 2020 following a meeting of representatives of the Government of USC, European Commission, and IOM, which was held in March 2020. The total capacity of the camp is 900 people, and it is intended for the accommodation of men. This camp was formed to accommodate migrants who were staying in abandoned buildings in the area of the city of Bihać, due to the emergency situation caused by the COVID-19 pandemics. On average, 1,032 people stayed in Lipa every month. On 21 December 2020, the Council of Ministers of BiH passed a Decision establishing a temporary reception centre for the accommodation of migrants at the Lipa location.⁸⁰

In 2020, **Montenegro** took steps to expand accommodation facilities for foreigners seeking international protection. Thus, through the implementation of the project, which was financed by the EU Delegation in Montenegro, and in partnership with Mol and the Police Directorate, the Centre for Reception and Accommodation of Foreigners Seeking International Protection was established at the Božaj watchtower on the road to Albania.⁸¹ The capacity of the centre was expanded for 60 people, and it is planned to function within the Directorate for Reception in Mol. Through projects implemented by IOM, five containers for accommodation were reconstructed and additional 12 containers were procured. In addition, the opening of the camp provided all persons in the camp with the opportunity to immediately express their intention to apply for international protection, which is much more practical compared to the previous period, when they could only do so at the Centre for the Reception of Foreigners in Danilovgrad. Additionally, with the opening of the Camp in Božaj, the alternative accommodation on Konik was closed, because the existing capacities were sufficient, and consequently, the financial burden for the state was reduced.

In 2021, the Government of Montenegro established the Rulebook on Internal Organisation and Systematisation of Mol,⁸² which determined a new basic internal organisational unit - the Directorate for Administrative Affairs, Citizenship and Foreigners, which abolished the Directorate for Civil Status and Personal Documents. This also led to the reorganisation, i.e., the abolition of part of the work of internal organisational units. The Directorate for Foreigners, Migration and Readmission, the Directorate for Asylum, the Directorate for Reception of Foreigners Seeking International Protection, the Directorate for Integration of Foreigners with Approved International Protection and Reintegration of Returnees upon Readmission continue to perform the same tasks within their competences.

78 The capacity of Magure is up to 100 people and of Vranidoll is about 200 people.

79 Available at: http://www.granpol.gov.ba/data/documents/pdf/BH_granicna_policija_2018_-_WEB_11618.pdf.

80 Migration profile of BiH 2020, available at: <http://www.msb.gov.ba/PDF/210620211.pdf>.

81 Mol: Final Report on implementation of the Strategy for Integrated Migration Management in Montenegro for the period 2017 - 2020, available at: <https://www.gov.me/dokumenta/c73b4fde-57df-4ca8-8b52-8792dcdec82a>.

82 The Rulebook on Internal Organisation and Systematisation of Mol, available at: <https://www.gov.me/dokumenta/fa27be59-07a8-4882-9d8a-1da43427a936>.

1.8. Activities of International Organisations and CSOs in WB Countries

International and local organisations continued to play an active role in providing support and services to illegal migrants, asylum seekers, and refugees throughout the WB countries in places where migrants and refugees are accommodated. However, during the state of emergency in 2020, a lot of activities in asylum and reception centres were temporarily suspended. IOM has conducted several regional projects, such as Assisted Voluntary Return and Reintegration Programme (AVRR) in Western Balkans, Addressing COVID-19 challenges within the Migrant and Refugee Response in the Western Balkans and Regional Support to Protection-Sensitive Migration Management in the Western Balkans and Turkey – Phase II.⁸³

As the COVID-19 virus continued to spread, in **North Macedonia** international and local organisations reduced their presence in the transit and reception centres following the recommendations from the authorities to prevent the spread of the virus and protect public health. Still, services for migrants and refugees rely on donations and support from international and local organisations. International organisations, the UNHCR and IOM, are the only subjects that are still present in the transit centres Vinojug and Tabanovce. IOM still provides major financial support to the authorities by paying the running and other costs to maintain the transit centres operational and functional. Moreover, they also support migrants through the AVR programme if they qualify for the services. The UNHCR, on the other hand, provides support to its local partners to maintain their activities in both transit and reception centres for asylum seekers and foreigners.

Regarding local organisations, the Red Cross is present in both transit centres and is responsible for the provision of food, non-food items, and medical services to refugees and migrants. MYLA provides legal counselling in the transit centres and the reception centre for asylum seekers. Legis and Caritas occasionally provide meals in the transit centres in coordination with the Red Cross. In the Reception Centre for Asylum Seekers Vizbegovo, MYLA provides support to asylum applicants on daily basis, while other organisations that used to have access to the site with their psycho-social support, such as Open Gate - La Strada, and legal aid, such as Jesuit Refugee Service (JRS) to asylum seekers are no longer present in this facility. Local organisations no longer provide psychosocial support in any of the transit centres. The management of both sites, transit centres Vinojug and Tabanovce, is still under the competences of the Centre for Crises Management, which organises occasional meetings with other actors to discuss possible issues. The referral mechanism is functioning without any obstacle when it comes to covering the needs of migrants and refugees.

Border management is still exclusively in the hands of Mol. There are no indications of the possibility of engaging local organisations in border monitoring activities. In the draft MoU, sent to Mol more than a year ago, MYLA expresses its interest to engage in border monitoring, but still, there is no feedback from Mol. Currently, only JRS is allowed access to the Reception Centre for Foreigners Gazibaba, but their mandate and activities in this facility are unclear. Despite its close cooperation with Mol, MYLA has not yet given access to provide legal counselling, although the house rules of the centre for foreigners stipulates the legal assistance to be covered by local organisations.

In **Serbia**, health protection measures have substantially limited the fundamental human rights of refugees and migrants. Notably, international and local organisations have continued to assist and provide free professional aid to refugees and asylum seekers in Serbia, including BCHR free legal aid in asylum and reception centres, at Belgrade Nikola Tesla Airport and Shelter for Foreigners. The UNHCR partners in Serbia and other CSOs continue to provide various activities in the camps, such as psychosocial support, assistance in education, social protection, child protection, interpretation, recreational activities that facilitate inclusion and cultural mediation.

In **Kosovo***, CSOs have continued to offer their support to migrants, asylum seekers, and persons granted status in Kosovo* by providing legal, psycho-social, and any other requested assistance. CSOs staff presence in reception centres continued in full until mid-March when there were restrictions due to the COVID-19 pandemic, which imposed all institutions including CSOs to work with reduced capacities. Legal officers visit all reception centres on daily basis, while applicants could also approach CSOs staff through a newly established way of communication through Viber/WhatsApp, which became available after Internet connections were installed. The border monitoring visits carried out so far by CRP/K have been intensified and realised in close cooperation with the UNHCR.⁸⁴ In 2020, 353 border monitoring visits were conducted. CRP/K conducted an additional fifty-four (54) 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.

⁸³ More about the project is available at: <https://serbia.iom.int/ongoing-projects>.

⁸⁴ Technical Agreement between Mol 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.

In **Albania**, the UNHCR and IOM have been working closely with national authorities in order to properly fulfil the objectives set by the National Strategy on Migrants. Meetings between relevant national institutions and representatives from the UNHCR have resulted in the raised concerns regarding the inclusion of migrants as beneficiaries to programmes of social protection in the Law 57/2019 “On social assistance in the Republic of Albania” and the Law 121/2016 “On social care services in the Republic of Albania”.⁸⁵ Aside from engaging in talks with representatives of institutions with the intent to aid them into making the necessary legal changes, the UNHCR has directly engaged with refugees at the borders, where, as of December 2020, they had conducted 738 information sessions with 405 refugees and asylum seekers on COVID-19 and health advice. In July 2020, the UNHCR and Mol signed a Memorandum of Understanding aimed at enhancing operational cooperation on the pledges made at the December 2019 Global Refugee Forum.⁸⁶ IOM has been providing aid to the implementation of the strategy by organising trainings of trainers for representatives of institutions charged with the implementation of the National Strategy on Migrants. In addition to the former, IOM has also supported migrants and authorities in addressing the challenges brought by the pandemic in Albania.⁸⁷

In **BiH**, along with the provision of free legal aid by VP BiH, migrants and refugees are entitled to a number of services including medical, psychosocial, interpretation and education or sports activities. Special attention is placed on vulnerable categories, including unaccompanied children. In this regard, in temporary reception centres, all persons have access to services through numerous organisations such as the Danish Refugee Council (DRC), which provides medical care, Médecins du Monde (MDM) and the BiH Women’s Initiative Foundation (BHWI), which provide psychosocial support, UNICEF and World Vision whose activity is aimed at the protection of unaccompanied and separated children and minors. World Vision employees are appointed as guardians for unaccompanied minors and take care of the best interests of the child. VP BiH has daily cooperation with guardians in order to ensure access to the asylum procedure for all unaccompanied minors who express a desire to stay in BiH. The UNHCR assists asylum seekers by connecting them with partners who can provide psychosocial support and legal advice and representation. IOM is working to address a number of migrant needs, including the following: accommodation/shelter in one of the temporary reception centres; transportation to key services; food, non-food items, water and sanitation; translation; psychosocial support; assisted voluntary return and reintegration, referral to other services. Pomozi.ba is a local organisation that provides meals in reception centres and a wide range of services depending on the needs and priorities.

During 2020, the Civic Alliance continued to provide free legal aid to asylum seekers, migrants, and persons with approved international protection in **Montenegro**. This work included a daily presence on the field and in competent institutions such as Mol, Centre for Social Work, Employment Agency of Montenegro, etc. Field workers talked to migrants when entering Montenegro, but also when leaving the country. Legal representatives represented asylum seekers before the Directorate for Asylum in the procedure of granting international protection, but also in the process of exercising the rights prescribed to them by the Law on International and Temporary Protection of Foreigners. The Red Cross worked on providing psychosocial support to migrants in camps and on the field. Both organisations worked with the support of the UNHCR office in Montenegro. In 2020, the UNHCR provided various kinds of support to the asylum facilities, the Directorate for Asylum, and Mol in developing a protection-sensitive asylum system, including access to asylum, as well as developing integration plans. The UNHCR also provide trainings and capacity building activities for asylum authorities and assist the government in developing secondary legislation on asylum to address shortcomings in the implementation. IOM in Montenegro focuses its work on various thematic areas in the field of migration management, such as readmission, reintegration of returnees, return of migrants to countries of origin, migration statistics, cultural mediation. IOM also supports the work and functioning of the centre for the reception of foreigners seeking international protection, youth engagement, integrated border management, human trafficking, migrant smuggling, etc. IOM Montenegro also participates in a large number of IOM regional projects that cover the area of the WB, through which it seeks to take a regional approach in working on these topics.⁸⁸

85 Monitoring Report on the Implementation of the Action Plan of the National Strategy on Migration, available at: <https://mb.gov.al/plane-dhe-strategji/>.

86 Albania Bi-annual fact sheet 2021, UNHCR, available at: <https://www.unhcr.org/publications/operations/60d0954439/bi-annual-fact-sheet-2021-02-albania.html?query=albania%20fact%20sheet>.

87 Available at: <https://albania.iom.int/news/eu-commissioner-johansson-visited-albania-border-crossing-points>.

88 More details about these activities can be found at <https://montenegro.un.org/> and <https://www.facebook.com/iommontenegro/>.

2. Part II: Practice

2.1. Access to the Territory

In 2020, **North Macedonia** was faced with an increased number of illegal migrants transiting the country. According to Mol report, the intention to cross the border illegally increased by 30.5 %, mainly on the border with Greece.⁸⁹ Specialized international organizations observed 41,257⁹⁰ new arrivals.⁹¹ The migrant profile remained largely the same as in the previous two years, with nationals of Pakistan (35%) and Afghanistan (23%) constituting the largest groups, predominantly single males, followed by migrants from Bangladesh, Syria, and India.⁹² Additionally, it reported that on the border with Serbia, the number of attempts for illegal border crossing increased by 42%, while on the border line with Bulgaria, authorities reported increased cases of smuggling of migrants.

There were no intentions for asylum claims launched in the country in 2020 and almost all of them were registered from the authorities and returned to Greece. Migrants who managed to enter the country without being detected by the authorities continued their journey north towards Serbia. Both reception and transit centres on the southern and northern borders provided short-term accommodation during 2020 for a total of 971 persons.⁹³ Neither of the transit centres is suitable for long-term stays, and the authorities are still reluctant to allow for more than a temporary stay.⁹⁴ The authorities selectively allowed vulnerable individuals and groups to stay in TC Vinjug in Gevgelija, while the remaining caught migrants were immediately sent back to Greece.

In April 2021, the Parliament of North Macedonia adopted a new decision to extend the existence of emergency crises in part of the territory of North Macedonia due to increased risks and the number of entries and transits of migrants through the territory of the country, as well as due to the protection of public health from illegal migration in the pandemic.⁹⁵ The emergency crisis was extended until 31 December 2021. The army troops continued to be present and assist the police in border protection activities mainly on the border with Greece. In its report, Mol states that it prevented 32,100 attempts of border crossing from which over 85% (or 27,971) were from the border with Greece which constitutes an increase of border-crossing attempts by 27.4% compared to the previous year. A substantial number of cases were detected in January and February 2020 when Turkey opened the border with Greece.

Over the course of 2020, the authorities denied entries to 1,499 foreigners which constitute a 36% decrease compared to the previous year.⁹⁶ At the same time, the exit was not allowed to 225 foreigners.⁹⁷ The most common reasons for preventing foreigners from entering and leaving the country are related to reasons constituting a threat to national security, difficulty to justify the purpose of the travel and stay in the country, non-possession of a valid visa to enter the country, passport expiration, previously issued ban to enter the country, overstay in North Macedonia, usage of fake travel documents, non-possession of a valid visa for the country of destination, and the commission of criminal or misdemeanour crime in the country.

In **Serbia**, the UNHCR observed a total of 24,250 arrivals in 2020⁹⁸, but according to Mol official data, there were 60,000 new arrivals.⁹⁹ The number of observed arrivals is significantly high for the first six months of 2021, where the number of observed arrivals is 20,921.¹⁰⁰ Municipalities and towns in the border zone at the exit border points, i.e., the border with Croatia, Bosnia and Herzegovina, and Hungary continue to be particularly affected by migratory movements.

89 *Op. cit.* Mol Annual Report 2020.

90 North Macedonia Annual Result Report 2020, available at: https://northmacedonia.un.org/sites/default/files/2021-06/MK-UNCT-2020-ARR_ENG_Final_1.pdf.

91 The average monthly movement of migrants varied between 911 and 5,100 persons, while from the total number of migrants reported almost 2/3 have been recorded in the second half of 2020. Following the pandemic outbreak the numbers dropped significantly, especially in April when only 516 attempts to cross the border was reported, followed by an increase in numbers when the authorities released the restrictive measures in the country.

92 *Op. cit.* EU Report North Macedonia 2020.

93 *Ibid.*

94 *Ibid.*

95 The decision for emergency crises is available at: <https://www.sobranie.mk/materialdetails.aspx?materialId=32d6aaea-7140-47dc-92b9-fd7ba42ba786>.

96 This number is referred to all foreigners who did not fulfil conditions for entry in the country.

97 *Op. cit.* Mol Annual Report 2020.

98 UNHCR Serbia Monthly Update, December 2020, available at: <https://reliefweb.int/report/serbia/unhcr-serbia-monthly-update-december-2020>.

99 *Op. cit.* Mol, Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 19.

100 Data collected from UNHCR country monthly snapshots for Serbia in 2020 and 2021, available at: <https://reliefweb.int/updates?advanced-search=%28PC209%29>.

Mol report indicates that during 2020 it suppressed 38,226 people in trying to illegally cross the state border – 22,572 resulting from the direct action of police and 15,654 resulting from the preventive action of the police.¹⁰¹ The number of denied entries is 3,866¹⁰², which is decreased compared to 2019.

An interesting shift in government policy started at the end of 2020 and continued in 2021 in the form of gathering of refugees and migrants staying outside the reception centres, mostly in downtown Belgrade and in border areas, and transferring them to official migrant reception centres with vacant places. Many media regularly published news about these actions.¹⁰³

Following the now well-set trend, the flow of entries by migrants in **Albania** continued to rise during 2020 as well. According to official data provided by Mol, the total number of migrants in the territory of Albania currently stands at 18,835 individuals, of which 11,970 were new arrivals. The most popular entry points remain Kakavia (Gjirokastër) and Kapshtica (Korça).¹⁰⁴ According to the UNHCR, the new entries were made up of more than 80% males, although the number of women and children was increasing.¹⁰⁵ The majority of the migrants were Syrian, followed by Afghans, Iraqis, and Moroccans. According to Save the Children, children made up around 11% of the arrivals, with the overwhelming majority being boys again.¹⁰⁶ More than 99% of the migrants entered Albania through its green borders with Greece and move up north, usually to Tirana, where they might seek shelter in one of the reception centres by applying for asylum status. The intercepted migrants were either pushed back into Greece or housed at the reception centres. Further on, they usually continue pursuing the road up to the north of Albania where they cross the borders to Montenegro.¹⁰⁷ A less frequent terrestrial route is that crossing to Kosovo and a few of the migrants also pursue the more expensive alternative, which is to travel to Durrës or Vlora and reach Italy through its blue borders.¹⁰⁸ The Director of the Department of Borders and Migration noted that the cooperation with Frontex in border patrols has been extremely fruitful considering that 90% of migrants are now intercepted at the borders, compared to 30% before the involvement of Frontex.¹⁰⁹

In **Kosovo***, 2020 was characterised by a decrease in the flow of migrants, compared to the previous year and the numbers were by a quarter smaller than in the previous year.¹¹⁰ Coming mainly from Syria, Iraq, Morocco, Algeria, and Palestine, these people remained in Kosovo* for months, prior to moving on to their destinations in the EU, due to COVID-19 movement restrictions. Of the total number of migrants who entered Kosovo* irregularly, 1,409 were sheltered in AC.¹¹¹ In 2020, while the largest number of applicants were single male adults, there were also quite a number of families with children accommodated in AC.

During 2020, 3,082 persons were denied entry to Kosovo* as they did not meet the entry conditions. The entry was denied to 1,721 Serbian citizens due to the lack of ID cards, based on the bilateral agreement on free movement, as well as 300 North Macedonian, 240 Montenegrin, 129 Turkish, 95 Albanian, 64 BiH, 63 Ukraine, 60 German, 43 Jordanian citizens and other citizens from different states in smaller numbers. Another reason for denying entry to foreigners in Kosovo* was the lack of negative COVID-19 tests and valid visas to which Kosovo applies the visa regime.¹¹²

In **Montenegro**, access to the territory can be said to have been challenging in 2020. According to UNHCR statistics, there were 2,836 new arrivals. Montenegro was mainly a transit country for the people from North Africa, the Middle and the Far East, Afghanistan, where the largest percentage were families, while from other countries there were younger men who travelled individually. The Border Police prevented 643 persons to enter Montenegro, 753 persons to leave Montenegro, and in total, they registered 3,149 migrants.¹¹³ During 2020, there were 556 denied entries.¹¹⁴

101 *Op. cit.* Mol, Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 10.

102 *Op. cit.* Migration Profile of the Republic of Serbia 2020, p. 30.

103 I.e. *Danas* - <https://www.danas.rs/beograd/policija-pronasla-24-ilegalna-migranta-u-beogradu/>; *N1* - <https://rs.n1info.com/vesti/policija-pronasla-migrante-u-centru-beograda-i-sprovela-ih-u-prihvatne-centre/>; *RTS* - <https://www.rts.rs/page/stories/sr/story/125/drustvo/4274738/ilegalni-migranti-policija-beograd.html>; *Mondo* - <https://mondo.rs/Info/Drustvo/a1440557/migranti-pretres-kontrola-policija.html>.

104 Data on Migration and Asylum, available at: https://mb.gov.al/wp-content/uploads/2021/02/Të-dhëna-për-migracionin-dhe-Azilin_2015-2020.pdf.

105 UNHCR - South Eastern Europe - New Arrivals tracking, available at: <https://data2.unhcr.org/en/dataviz/103>.

106 Refugees and Migrants at the Western Balkans Route, Regional Overview October-December 2020, Save the Children, available at: https://resourcecentre.savethechildren.net/node/19051/pdf/refugees_and_migrants_balkans_regional_overview_q4_2020_sc_bmdh_data.pdf.

107 *Op. cit.* UNHCR - South Eastern Europe - New Arrivals tracking.

108 Spot prices: Analysing flows of people, drugs and money in the Western Balkans. Global Initiative against Transnational Organised Crime, May 2021, available at: <https://globalinitiative.net/analysis/western-balkans-crime-hotspots-3/>.

109 Available at: <https://a2news.com/2021/03/05/imigrantet-e-paligjshem-hyrje-masive-ne-shqiperi-rreziku-nga-terroristet-e-luftetaret-e-huaj/>.

110 CRP/K data.

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

112 Kosovo Police data.

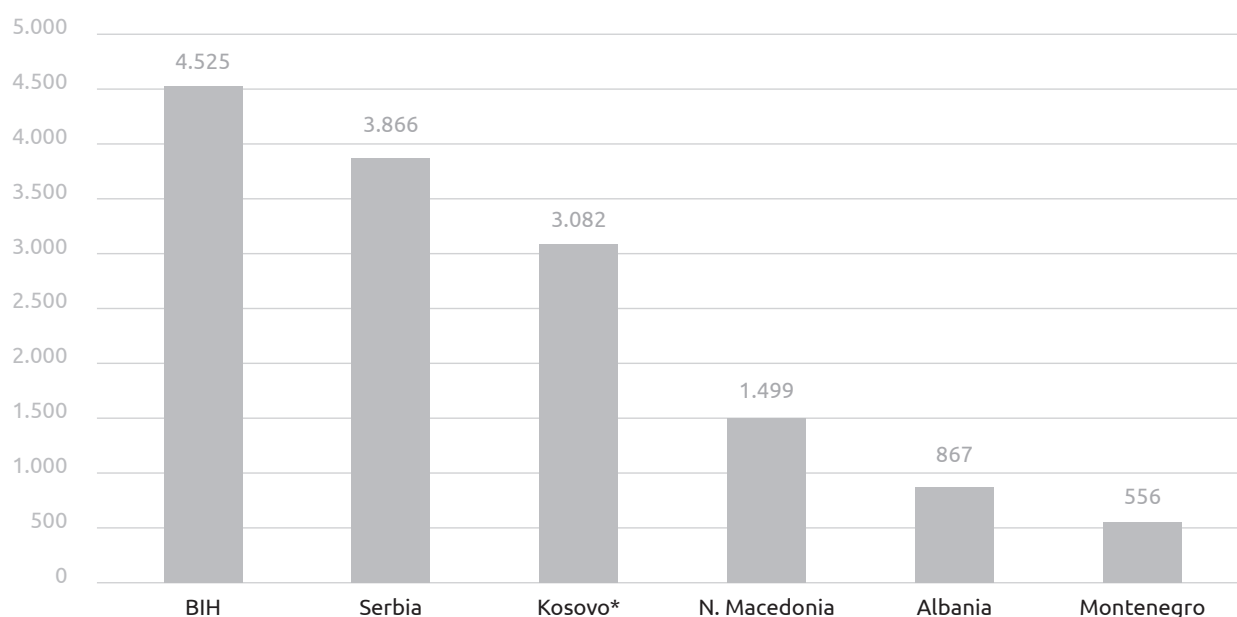
113 Data obtained by request for free access to information from the Department for Foreigners, Visas and Suppression of Illegal Migration.

114 Data obtained by request for free access to information from the Department for Foreigners, Visas and Suppression of Illegal Migration.

After successfully entering the country, sometimes even after several attempts, migrants usually go to the Camp on Božaj, where they express their intention to apply for international protection. There have also been a large number of complaints against the Albanian border police, who are taking money from people in order to allow them to leave the country. Whether they are families with small children or single persons, they are often deprived of all the money they have. What made the access even more difficult is the working hours of the camp only until 3 pm, which means that people who come later have to continue their journey through Montenegro illegally or wait for the next day. This is especially difficult for families with small children. Moreover, people who leave the camp can no longer return to it, and at the same time they sign a statement agreeing to it, and often, due to inadequate translation, do not know what they have signed. In addition to the camps in Spuž and Božaj, these people also use the services of private accommodation, such as hostels, houses, and other similar facilities. At the end of 2020, a large number of migrants changed their route, so from Podgorica they headed for Rožaje, a town on the border with Serbia.

In **BiH**, the number of arrivals on the territory also continued to grow (16,190 new arrivals in 2020), although the COVID-19 pandemic and numerous restrictive measures significantly affected the number of entries. The main declared countries of origin were Afghanistan, Pakistan, Bangladesh, and Morocco. The UNHCR reported that 6,051 asylum seekers and migrants were accommodated in reception facilities at the end of December 2020, while 1,900-2,000 persons were estimated to be squatting outside of formal accommodation, mainly in USC, including 900 at the Lipa site.¹¹⁵ The Border Police of BiH denied 4,525 entries to the country in 2020, with an increase of 93.21 % when compared to 2019. In addition, the Border Police identified 11,006 persons who were prevented from illegally crossing to the territory of BiH and returned to the territory of neighbouring countries from where they arrived.¹¹⁶

Figure: Denied entries 2020 (data from national authorities)



115 Available at: <https://reliefweb.int/report/bosnia-and-herzegovina/bosnia-and-herzegovina-fact-sheet-december-2020>.

116 Op. cit. Migration profile of BiH 2020.

2.2. Smuggling of Migrants and Other Acts Related to Illegal Border Crossings

In **North Macedonia**, according to Mol report, as a result of illegal activities of foreigners in the country, 230 criminal charges were filed against 269 foreigners for 249 criminal offences during 2020. Regarding misdemeanour charges, Mol initiated 653 charges against 1,263 foreign persons, mostly for violating the Law on Foreigners (illegal entry and overstay) and the Law on Border Control.¹¹⁷ Throughout 2020, the authorities reported an increase of 32.6% in criminal offences of smuggling of migrants compared to 2019.¹¹⁸ At the same time, the number of detected cases of smuggling of migrants increased by 17.3%. Mol detected 95 cases of smuggling of migrants, which is 14 cases more than in 2019. Criminal charges were filed against 91 persons, of which 81 persons were Macedonian citizens and 10 were of foreign nationality, 4 from Serbia, 3 from Turkey, 2 from Ghana, and 1 from Kosovo*. In the detected cases, Mol prevented the smuggling of 2,723 migrants in the country, which is a significant increase compared to 1,529 migrants in 2019. The most dominant group of smuggled migrants are Pakistani citizens with 1,033 people (38%) followed by Bangladeshi citizens 588, and Afghanistan citizens 553. The remaining smuggled persons are Syrians, Indians, Turks, Kurdish, Iranian, Egyptian, Somalian, and Iraqi citizens. The largest number of cases of smuggling of migrants are detected and intercepted in the eastern part of the country, along the border with Bulgaria, which suggests that this route is beginning to be intensively used by smugglers, while smuggling migrants from Bulgaria. The largest number of cases were registered in June and August 2020.¹¹⁹ The Public Prosecution Office for Organised Crime and Corruption, based on Article 418-b – Smuggling of Migrants of the Criminal Code of North Macedonia, initiated 52 indictments and concluded 11 plea bargaining with accused persons in 2020.¹²⁰ The Basic Criminal Court in Skopje registered 77 criminal cases for the smuggling of migrants.¹²¹ In 2020, a total of 75 trial hearings for smuggling of migrants were organised and there were 45 final judgments for smuggling of migrants for 67 persons.¹²²

Detention of smuggled migrants in North Macedonia

The majority of smuggled migrants who were detected by the patrolling units of the police officers along border sites and inside the country were returned to Greece, while a small number were sent to the Reception Centre for Foreigners, where they were kept until the trial against smugglers took place. The legal ground for keeping them in the Reception Centre was to establish identity, a procedure commonly used in every case involving the smuggling of migrants. After testifying, migrants were released from the detention centre using the asylum application system through which they were transferred to AC Vizbegovo. Asylum claims usually serve only as a ground for transferring migrants from the detention to the reception centre where migrants can move freely inside and outside the centre.

In **Albania**, there has been an increase in the number of cases of smuggling of migrants in the past few years, as since 2018 borders between Greece and North Macedonia, as well as between Serbia and Hungary have become harder to cross. During 2020, the Albanian State Police organised two special operations titled “Destination” and “Perimeter” through which 96 smugglers that helped migrants illegally cross border points and 442 illegal migrants were detected.¹²³ In addition to that, some sporadic individual cases of smuggling were detected. Due to the better coverage conducted by Frontex and the Albanian Border Guards, a very slight trend of electing to cross via blue borders into EU member countries has become apparent.

The Prosecutor’s Office Yearly Report on the State of Crime notes that during 2020 there were 239 criminal proceedings based on Article 298 of the Penal Code “Facilitation of illegal border crossing”, almost twice the number of proceedings in 2019.¹²⁴ Moreover, there were 633 cases of criminal proceedings on illegal crossing of borders, a significant decrease

117 Mol Annual Report for 2020, p. 86.

118 *Op. cit.* Mol Annual Report for 2020.

119 *Ibid.*

120 Annual Report of the National Commission for fight against THB and smuggling of migrants for 2020, available at: <http://nacionalnakomisija.gov.mk/wp-content/uploads/2016/12/%D0%93%D0%BE%D0%B4%D0%B8%D1%88%D0%B5%D0%BD-%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-%D0%BD%D0%B0-%D0%9D%D0%9A-%D0%B7%D0%B0-%D0%A2%D0%9B-%D0%B7%D0%B0-2020.pdf>.

121 Data provided from the Report of the National Commission for Fighting THB and SM. On other hand, in the Report on the work of the Basic Criminal Court in Skopje for 2020, the court mentions the number of 75 cases of smuggling of migrants admitted to the court.

122 *Op. cit.* Annual Report of the National Commission for Fighting THB and Smuggling of Migrants for 2020.

123 Available at: <https://faktoje.al/ne-shqiperi-u-shtua-kalimi-tranzit-i-emigranteve-te-paligjshem-pavaresisht-pandemise/>.

124 General Prosecutor’s Report on the State of Crime in 2020, General Prosecutor, April 2021.

compared to 1,325 proceedings in 2019. The overwhelming majority of the defendants were male and unemployed and more than half of them had only completed elementary education. Most of these cases occurred in Gjirokastrë, Kukës, and Korça, notably all cities that have green borders with other countries (Greece and Kosovo*).

In **Serbia**, combating irregular migration is a strategic goal within the Police Strategic Plan 2019-2021.¹²⁵ In 2020, Mol filed a total of 134 criminal charges against 179 people for this criminal offence – out of which 42 were against taxi drivers and other persons organising the transport of “irregular migrants”.¹²⁶ In the same year, 164 people were convicted in the first instance for this criminal offence - 147 persons were sentenced to imprisonment, 1 person was financially fined, while 16 persons got suspended sentences.¹²⁷ During 2020, a total of 1,544 misdemeanour charges were filed against irregular migrants for illegal crossing of the state border and illegal stay. Mol conducted many actions of arrests related to the smuggling of humans and border-related offences. Most often people were arrested near the border with Romania,¹²⁸ near the border with Hungary,¹²⁹ as well as near the border with Bulgaria.¹³⁰

In **Kosovo***, 23 smuggling incidents with 290 persons involved were recorded in 2020. The majority of migrants were smuggled to Kosovo* through Albania, where 19 groups were smuggled involving 267 individuals, 1 from North Macedonia to Kosovo* involving 6 individuals, 1 from Serbia to Kosovo* involving 10 individuals, and 2 other incidents where 7 individuals were involved.¹³¹

In **BiH**, there is no precise published information about the number of criminal charges filed against smugglers or the number of judgments issued in 2020. However, different sources indicate that anti-smuggling activities were taken over the year. A press release dated 9 December 2020 says that Bosnian police detained more than 20 people suspected of smuggling migrants across the border into Croatia. The prosecutor’s office stated that in the second half of 2020 more than 20 Bosnian citizens, mostly from the north-western city of Bihać and its surroundings, committed continuous illegal activities in finding, recruiting, smuggling, transporting a large number of irregular migrants, mostly citizens of the Middle East and other Afro-Asian countries.¹³² InfoMigrants reported that Bosnian authorities arrested eight people suspected of migrant trafficking and prevented the smuggling of 45 migrants into the EU. The detainees were suspected of transporting, hiding and smuggling migrants into neighbouring Croatia to travel onwards to Italy.¹³³ An additional press release confirmed that the prosecutor’s office filed the criminal charge against one Bosnian national suspected of smuggling of 5 migrants, including a child from Egypt, from Zvornik in BiH to Serbia.¹³⁴

In **Montenegro**, during 2020, there were two orders of investigations and 14 investigations from the previous period were unresolved, so in 2020 there were a total of 16 investigations related to the people smuggling. 8 investigations were resolved and 8 remained unresolved. 8 persons were charged and a total of 14 with the previous period, 6 persons were convicted.¹³⁵ Due to the criminal offence of unauthorised crossing of the state border, smuggling of people from Article 405 of the Criminal Code of Montenegro, 2 plea agreements were concluded, which were adopted by the court and on the basis of which a verdict was rendered sentencing the defendants to imprisonment and a fine in the amount of 1,500.00 euros. Due to criminal offences of the unauthorised crossing of the state border and smuggling of people from Article 405 of the Criminal Code of Montenegro and the creation of a criminal organisation from Article 401a of the Criminal Code of Montenegro, 10 plea agreements were concluded, of which 7 agreements were adopted by the court and based on them a verdict was passed sentencing the defendants to imprisonment and a fine as an ancillary amount of 6,500.00 euros, while 3 plea agreements are awaiting a court decision.¹³⁶

125 Available at: <http://www.mup.gov.rs/wps/wcm/connect/c206983b-503f-4ebf-bf5b-8d5bc65ca8e3/Strateski+plan+policije+-+Javna+verzija-WEB.pdf?MOD=AJPERES&CVID=m3r4AMv>.

126 *Op. cit.* Mol, Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 11.

127 *Op. cit.* Mol, Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 11.

128 Available at: <https://www.politika.rs/scc/clanak/474847/Pokusali-krijumcarenje-ljudi-preko-granice-pa-uhapseni>.

129 Available at: <https://www.subotica.com/vesti/uhapseni-taksisti-osumnjiceni-da-su-krijumcarili-migrante-id39965.html>.

130 Available at: <https://www.juznevesti.com/Hronika/Dimitrovgradjani-uhapseni-zbog-krijumcarenja-migranata.sr.html>.

131 Data gathered by CRP/K.

132 Balkan Insight, “Bosnian Police Bust Another Migrant Smuggling Ring”, 9 December 2020, available at: <https://balkaninsight.com/2020/12/09/bosnian-police-bust-another-migrant-smuggling-ring/>.

133 InfoMigrant, Bosnia and Croatia arrest eight suspected migrant smugglers, 28 May 2020, available at: <https://www.infomigrants.net/en/post/25052/bosnia-and-croatia-arrest-eight-suspected-migrant-smugglers>.

134 Anadolu Agency, BiH: Indictment for smuggling migrants filed on 17 December 2020, available at: <https://www.aa.com.tr/ba/balkan/bih-podignuta-optu%C5%BEnica-za-krijum%C4%8Darenje-migranata/2080381>.

135 Annual Report of the Special State Prosecutor’s Office for 2020/, available at: https://sudovi.me/static/spdt/doc/lzvjestaj_o_radu_SDT-a_za_2020.godinu.pdf.

136 *Ibid*, p 21.

Cases from Montenegro

In Pljevlja, it is not uncommon for local residents to try to smuggle migrants to cross the border with BiH or Serbia. In 2020, the Police in Pljevlja filed four criminal charges against 5 Montenegrin citizens for smuggling, to the detriment of 20 people in total. A criminal complaint was also filed against a man from Iraq, because he promised to transfer one family across the border for a certain amount of money. However, he took the money from them and ran away. Due to the injury he suffered while trying to cross the border, he had to return to Pljevlja. A criminal complaint was soon filed and the person was deprived of his liberty.

In 2021, in a village not far from Pljevlja, families from Afghanistan with a total of 12 members (6 children) were stopped, as they tried to cross the border illegally in cars with two Montenegrin citizens. All persons were deprived of their liberty, taken to the police station, and then sent to the prosecutor's office to give a statement. After that, the families were released, and no proceedings were initiated against them. The Centre for Social Work was also involved in the whole case, which also paid for their accommodation.

2.3. Immigration Detention

In **North Macedonia** during 2020, Mol detained 119 migrants in the Reception Centre for Foreigners Gazi Baba - 106 males and 13 females, including 32 from Turkey, 19 from Afghanistan, 17 from Pakistan, 12 from Albania, 11 from Bangladesh, 6 from Kosovo*, 4 from Syria, 3 from Egypt, Iraq and Russia, 2 from Iran and Slovenia, and 1 from Bulgaria, Serbia, Germany, Hungary and without citizenship.¹³⁷ From the detained migrants in the Reception Centre for Foreigners, 53 persons were detained on the basis of determination of identity, while 4 aliens were detained as a result of illegal entry (3 from Turkey and 1 from Hungary). From the obtained data, Mol claimed that 95 detained persons asked and received legal aid, without specifying the type of legal aid.¹³⁸ Moreover, MYLA submitted 21 requests¹³⁹ to be allowed access to the Detention Centre for Foreigners, but none of the requests had a positive outcome. Apart from detaining aliens in the Reception Centre for Foreigners, MYLA reported that authorities also detained migrants in TC Vojug, which also served as a place to separate and quarantine asylum seekers and migrants in the attempts of the officials to suppress the spread of the COVID-19 virus in the country. The average detention period, in both Reception Centre for Foreigners and TC Vojug was 20 days, while the longest detention period was 55 days.¹⁴⁰

With regard to the vulnerable groups of migrants, 13 children, 6 accompanied and 7 unaccompanied minors, were detained in the Reception Centre for Foreigners.¹⁴¹ Of the accompanied minors, 5 were nationals of Turkey and 1 of Albania, all accompanied by women, while of the group of unaccompanied minors 6 were Afghans and 1 German citizen. Unaccompanied children were all appointed guardians while in detention, however, guardians did not always have access to the children. Finally, as it was the practice in the previous years, authorities continued to provide to the migrants the detention decision and the ground for detention on a selective basis or provide the decision in the local language which is not understandable for migrants. This practice made it difficult for the migrants to get familiarised with the reasons for detention and possibly object to that decision.

In **Serbia**, there is currently one Reception Centre for Foreigners in Padinska Skela, which is a closed institution under increased police supervision and is located within the Border Police Department (BPD) of Mol. Mobile centres for registration and short-term accommodation of irregular migrants have been established near the border with Romania and Bulgaria - the Reception Centre in Plandište and the Reception Centre in Dimitrovgrad, which are also under the jurisdiction of the BPD Mol, with a capacity of 100 beds each. At the moment, they are primarily recognised as pre-reception centres for the registration of migrants, but it is planned that at the end of 2021 they will be placed in the regime of intensified police supervision,¹⁴² i.e., to have the same purpose as the Reception Centre for Foreigners in

137 *Op. cit.* Mol answer 16.1.2-208/1 from 12 February 2021. Yet MYLA in its report for immigration detention counted that 317 persons were detained in the Reception Centre for Foreigners and TC Vojug from the period January- September 2020. The report is available at: <https://myla.org.mk/wp-content/uploads/2020/12/ENG-Immigration-detention-in-North-Macedonia-through-numbers-January-September-2020-1.pdf>.

138 Yet the data should be taken with reserve due to the fact that none of the detained aliens has appealed or used other available legal remedies to attack the decisions and the grounds for their detention in the centre for foreigners.

139 Through 2018 and 2020.

140 The US department 2020 report suggests that the average detention period of asylum seekers - migrants during the year was 15 days, with the longest period being 45 days and the shortest period one day.

141 According to Mol answer 16.1.2-208/1 from 12 February 2021, while MYLA reported 76 detained children in the reception centre for foreigners and TC Vojug out of which 46 were unaccompanied minors.

142 *Op. cit.* Report on the implementation of the revised Action Plan for Chapter 24, point 1.3.1.

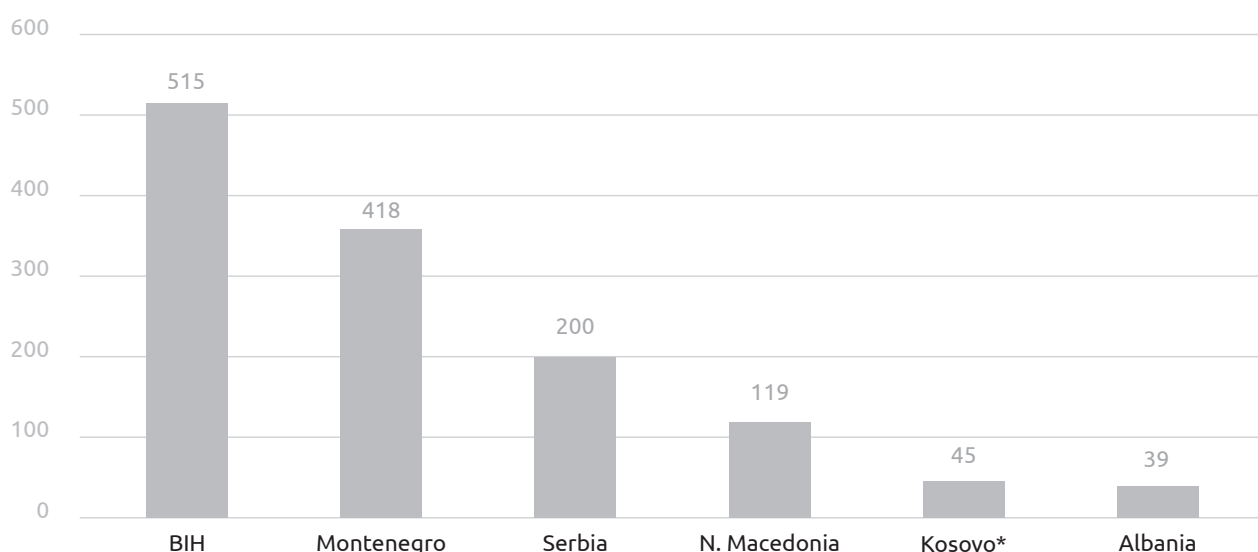
Padinska Skela. In 2020 the Reception Centre for Foreigners in Padinska Skela accommodated 200 foreigners, mostly from Afghanistan (73), Turkey (39), Syria (12) and Pakistan (12).¹⁴³ A total of 11 females were accommodated, while a total of 7 minors were accommodated.¹⁴⁴ Two persons detained in Padinska Skela opted for assisted voluntary return (AVR) in 2020 – a citizen of Ukraine and a citizen of Afghanistan.¹⁴⁵

In **Kosovo*** there is only one Detention Centre for Foreigners located in the village of Vranidoll. The Law on Foreigners defines it as a facility accommodating foreign nationals who have not been allowed entry into the country, or against whom expulsion, removal or return orders have been issued, but cannot be enforced immediately. During 2020, there were 45 persons accommodated in this centre. Foreigners in the Detention Centre, but in need of international protection may also express their intention to seek asylum at the Detention Centre. CRP/K regularly assessed, monitored, and reported accordingly on detention conditions and advocated against arbitrary detention.¹⁴⁶ No person was identified in need of international protection during the reporting period. Additionally, CRP/K established cooperation with the Ombudsperson's Office, but due to the pandemic situation with COVID-19, it was not possible to establish cooperation for joint monitoring of detention facilities.

In **Albania**, irregular migrants subject to an expulsion order are kept in the closed centre in Karreç.¹⁴⁷ During 2020, 39 foreigners have been accommodated in the Karreç Detention Center for Foreigners. Divided by nationality, they were: 3 Algerians, 8 Moroccans, 2 Afghans, 1 Egyptian, 2 Palestinians, 6 Turkish, 5 Syrian, 8 Iranian, 3 Iraqis, 1 Italian. During the period January-December 2020, there were no minors or women accommodated in Karreç."

In **Montenegro**, there were 418 people in the Reception Centre for Foreigners during 2020, of which 123 were from Turkey, 93 from Afghanistan, and 58 from Taiwan.¹⁴⁸ In **BiH**, there is one Immigration Centre in East Sarajevo (Lukavica), intended for the accommodation of foreigners who have violated the provisions of the Law on Foreigners and against whom surveillance measures have been imposed.¹⁴⁹ In 2020, 515 foreigners were accommodated in the immigration centre, mostly from Turkey (237), Pakistan (56), Afghanistan (33), Morocco (32), Bangladesh (30), and Albania (20).¹⁵⁰

Figure: Migrants in immigration detention 2020 (data from national authorities)



143 *Op. cit.* Mol, Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 24.

144 *Ibid.* p. 24.

145 *Ibid.* p. 25.

146 CRP/K has conducted 54 monitoring visits to the Detention Centre in Vranidoll.

147 Available at: https://mb.gov.al/wp-content/uploads/2021/02/Të-dhëna-për-migracionin-dhe-Azilin_2015-2020.pdf.

148 Response of the Centre for Foreigners based on the request for free access to information.

149 Article 117 (2) of the Law on Foreigners.

150 *Op. cit.* Migration Profile of BiH 2020.

2.4. Access to the Asylum Procedure

Similar to 2019, only a small and symbolic number of migrants filed asylum claims in **North Macedonia** and there was not a single intention to seek asylum registered. According to the official data, 199 asylum applications¹⁵¹ were initiated in the country over the course of 2020.¹⁵² The asylum claims involved a total of 211 persons.¹⁵³ The majority of the applicants were nationals of different countries: Afghanistan, Bangladesh, Iraq, Iran, Cuba, Morocco, Pakistan, Syria, and Turkey.¹⁵⁴ While most migrants seeking protection in the country were adults, children represented 15% or a total of 31 individuals of the asylum seekers who submitted claims in 2020. Of the total number of children, 19 were unaccompanied minors and all of them were appointed with guardians throughout their stay in the country.

The Sector for Asylum continued to remain relatively inactive and with a small number of cases - asylum applicants. Out of the total number of asylum claims, 21 applications were rejected after assessing the grounds for the application. The remaining cases were resolved by the decision to cease the procedure due to the fact that applicants were leaving the Asylum Centre (AC) in Vizbegovo, Skopje and could not be found in the country. Only one subsidiary protection status was approved in the country in 2020, and no refugee status.¹⁵⁵ In the same period, 10 decisions for restriction of freedom of movement of asylum seekers were issued based on the Law for International and Temporary Protection.¹⁵⁶

Registered obstacles in access to the asylum procedure in North Macedonia

In 2020, in the Transit Reception Centre (TRC) Tabanovce, located near the border with Serbia, MYLA reported that police officers securing the site refused to accept and allow submission of asylum claims for 19 potential applicants.¹⁵⁷ The migrants expressed their interest to launch asylum claims in North Macedonia and addressed the police officers, hoping that their claims would be registered and they would be transferred to the reception centre for asylum seekers. All of the migrants belonged to 4 families including 8 minor children.

However, the police officers, as they used to do in the past, refused to register their asylum claims and undertake the necessary step to report the claims to the department for asylum and possibly transfer the asylum seekers to AC Vizbegovo.

Police officers insisted that if the families were interested in submitting asylum claims in North Macedonia, they would need to do so in the Transit Centre (TC) Vinojug, on the border with Greece. If they insist, migrants are registered and accommodated in TC Vinojug and in case they submit an asylum application, in line with COVID-19 measures, they spend a minimum of 14 days in quarantine.

Although MYLA field staff were constantly monitoring and kept communication with these migrants, 14 migrants (out of 19) were pushed back to TC Vinojug and from there sent to Greece, while the remaining 5 migrants left the transit centre on their own and moved to an unknown destination. It should be noted that similar practices were previously applied in both transit centres (Tabanovce and Vinojug) by the police authorities and continue these days.

Other incidents are related to the practice of the authorities to keep intercepted migrants detained in TC Vinojug until they are able to testify against smugglers or traffickers of human beings caught by the authorities. Once the testimony is secured, these migrants are sent back to Greece.

In **Serbia** between 1 January and 31 December 2020, a total of 2,830 persons expressed intention to seek asylum.¹⁵⁸ Their number was significantly smaller than 12,937 persons who expressed intention to seek asylum in Serbia during the same period in 2019.¹⁵⁹ This is mainly due to the fact that Mol scaled down its registration activities due to the

151 *Op. cit.* Mol answer 16.1.2-209/1 from 12 February 2021.

152 In 2020, comparing with 2019, asylum claims have dropped for more than 155%.

153 From the overall number of asylum application 42% or 83 applications, involving 87 persons were submitted from the Centre for Foreigners in Skopje, 42% or 84 applications for 85 persons were launched before the police station and the remaining 16% or 32 claims for 39 persons were submitted at the borders.

154 The country has registered also applications from countries such as Albania, Bulgaria, Kosovo, Ukraine, Algeria, India, Myanmar, Lebanon and Egypt.

155 *Op. cit.* Mol answer 16.1.2-209/1 from 12 February 2021.

156 Article 63 of the Law.

157 MYLA field report 2020 July-September 2020.

158 *Op. cit.* Right to Asylum in Serbia 2020, Belgrade Centre for Human Rights, p. 15.

159 *Ibid.*

COVID-19 pandemic. The Serbian Government adopted the Decision on the Closure of All Border Crossings because of COVID-19.¹⁶⁰ The number of migrants in ACs and TRCs ranged from 4,300 to 8,900 through the year.¹⁶¹ The largest number was in April 2020, when 9,105 migrants were in centres and occupancy was 147%.¹⁶² Afghans (1,561), Syrians (297), Pakistanis (264), Iraqis (102), and Bangladeshis (100) made up most foreigners who expressed their intention to seek asylum in Serbia by the end of December 2020.¹⁶³ A total of 144 people applied for asylum in Serbia in 2020. Interviews in the Asylum Office were conducted with 84 applicants. In 2020, the Asylum Office upheld 29 asylum applications, dismissed 2 and rejected 51 applications.¹⁶⁴ Out of 29 upheld applications, refugee status was granted in 17 cases while subsidiary protection was granted in 12 cases. Refugee status was given to nationals of Afghanistan (6), Iran (5), Burundi (2), Iraq (1), Syria (1) and two stateless persons. Subsidiary protection was granted to nationals of Syria (4), Afghanistan (2), Burundi (2), Somalia (2), Iran (1), and Mali (1).¹⁶⁵ The second-instance body, the Asylum Commission, received 63 appeals from 1 January to 31 October 2020. The Asylum Commission rejected 43 appeals and upheld 9 in the same period.¹⁶⁶ The third-instance body, the Administrative Court, received 32 initial asylum-related enactments in the same period. The Court rejected 2 lawsuits¹⁶⁷ and 1 complaint.¹⁶⁸ In the first half of 2021, 600 foreigners have expressed their intention to seek asylum in Serbia, 80 of them applied for asylum and 28 decisions were issued.¹⁶⁹

Certain challenges from the earlier reports persist. There is still a need to improve the provision of relevant information by all authorities involved in the asylum procedure in a reliable manner and in a language asylum seekers can understand. In general, the already slow asylum system in Serbia was further hampered in 2020 due to the COVID-19 pandemic and subsequent unstable epidemiological environment.

Endangered safety and increasing hate speech against migrants in Serbia

The safety of migrants, asylum seekers and refugees, especially those belonging to vulnerable groups, was particularly jeopardised, as confirmed by the abuse of unaccompanied and separated children in one asylum centre, an incident the media extensively reported on.¹⁷⁰

The previous year, 2020, was marked by rising anti-migrant rhetoric and hate speech directed against refugees and migrants in Serbia. Although public discourse is not entirely negative, this trend is still present and persistent in 2021. In 2020, BCHR collected data from over 1,000 media reports, news items and various content that appeared in newspapers, on TV and Internet portals, and perused the public opinion poll on refugees and migrants.¹⁷¹ Results point out that negative perceptions were fuelled and mostly consisted of unverified theories and fake news and even conspiracies.¹⁷² In a negative context, the topic of security of citizens of Serbia and the country itself was prevalent, including minor and negligible infractions between migrants themselves. With the aim to promote multiculturalism, social diversity, tolerance and local cohesion BCHR initiated an online campaign.¹⁷³

In 2021 Group 484 conducted “Let’s try to see” campaign about migrants.¹⁷⁴ Besides the positive reactions to the campaign, soon after its start, negative connotations followed. On social networks, the campaign was a ground for outbursts of xenophobic, racist attitudes, as well as hate speech and calls for lynching of Group 484 employees.

160 Official Gazette of the RS, No. 37/20. Entry into Serbia was only permitted if it was in the national interest of Serbia and for humanitarian reasons, as well as with the permission of the competent state administration authorities.

161 UNHCR Data.

162 *Op. cit.* Mol, Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 18.

163 *Op. cit.* BCHR, Right to Asylum in the Republic of Serbia 2020, p. 16.

164 *Op. cit.* BCHR, Right to Asylum in the Republic of Serbia 2020, p. 17.

165 *Ibid.*

166 *Op. cit.* BCHR, Right to Asylum in the Republic of Serbia 2020, p. 19.

167 Case Nos. U 7696/20 and U 11206/20.

168 Case No. Uv 95/2020.

169 Statistical data were obtained from the UNHCR Serbia Office to which Mol RS has been forwarding its operational reports.

170 *More in:* Report Right to asylum in Serbia 2020, BCHR.

171 *Op. cit.* Right to Asylum in the Republic of Serbia 2020, BCHR, p. 173.

172 *Ibid.* pp. 173-174.

173 More about: <http://www.bgcentar.org.rs/prica-othman-mustafe-povodom-medunarodnog-dana-izbeglica/>, <http://www.bgcentar.org.rs/dogadaj-u-poletu-kako-smo-obelezili-medunarodni-dan-izbeglica-i-završnicu-nase-kampanje-miljudizajednomozemovise/>, <http://www.bgcentar.org.rs/poznate-izbeglice-koje-su-ostavile-traga-u-istoriji-miljudizajednomozemovise/>.

174 More about campaign: <https://www.grupa484.org/en/results-of-the-lets-try-to-see-campaign-about-positive-and-negative-reactions/>.

According to Mol,¹⁷⁵ there were 2,208 new asylum applications during 2020 in **Albania**, making it the country with the largest number of applications in the region, as per the data provided by the UNHCR,¹⁷⁶ although applications were limited in number due to the COVID-19 outbreak. In this line, there was a major decrease in the number of applications from 2019 to 2020, with the previous year numbering 6,604 applications. Nonetheless, in the majority of cases, asylum applications are used as a means of allowing the migrants to stay in the country until they elect to leave in one of the possible routes, which is why a great part of the applications are not processed until the very end and do not result in the granting of asylum. In 2020, only 4 migrants were provided subsidiary protection, and none were granted the status of refugee.

The number of asylum applications in **Kosovo*** slightly decreased compared to the previous year. Since the beginning of 2020 Kosovo* has started applying Article 52 of the Law on Asylum,¹⁷⁷ foreseen to be applied only in the event of a mass influx of migrants. Since then, police authorities have issued 1,532 expressions of intention to apply for international protection documents to migrants. These served 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. The migrants with issued 72-hour documents were placed in AC in the village of Magure, and in RC in the village of Vranidoll. It was noted that a lot of applicants chose to stay in the capital, in private rentals, right after receiving their asylum application IDs. All refugee status determination interviews were taken place in AC Magure, even though preparations were made for distance interviews to take place as well. The UNHCR invested in the preparation of the office in Magure where the interviews would take place by providing all technical support for a successful interview. CRP/K has continued to share updated Country of Origin Information (Col) reports on four countries (Turkey, Syria, Iraq, and Iran) with Department for Citizenship, Asylum and Migration, but further efforts are needed to enhance authorities' capacities, especially with regard to the interpretation and use of Col.

In 2020, 16,190 migrants and refugees arrived in **BiH**, 15,170 expressed their intention to seek asylum, and only 244 formally submitted their request for asylum.¹⁷⁸ Attestations of expressed intention to seek asylum are issued in local language with no interpretation services provided, which often causes misunderstanding and lack of information about main duties and responsibilities in the asylum procedure. A foreigner who expresses an intention to seek asylum is obliged to file the asylum application to MoS within a deadline of 14 days as set out in the attestation. If a foreigner fails to file the asylum application within the set deadline without a justifiable reason, it will be considered that he/she has abandoned the expressed intention, of which the MoS will notify the Service for Foreigners Affairs. In further proceedings, provisions of the law that regulates the movement and stay of aliens will be applied with respect to him/her.¹⁷⁹ They are issued an IOM ID card that MoS accepts as a residence permit. In case they leave the centre, they are required to register their new address in private accommodation or to report to another reception centre within three days.

The Sector for Asylum is prioritising for registration the persons from private accommodation and unaccompanied children accommodated in TRC Ušivak. However, there are some locations still being left out and not giving people accommodated there the possibility to access asylum procedure. Single males accommodated in centres Blažuj, Miral, and Lipa are completely excluded from asylum procedures. The last registration of asylum seekers in USC was held in October 2018, and since then only a few individual cases have been invited to MoS premises for the purpose of asylum registration. In 2020, 1 person was granted refugee protection (in the renewed procedure) and 30 persons were granted subsidiary protection.¹⁸⁰

175 *Op. cit.*, Data on Migration and Asylum.

176 South Eastern Europe - Refugees, asylum seekers and other people in mixed movements, December 2020, UNHCR, available at: <https://data2.unhcr.org/en/documents/details/84317>. According to the UNHCR Report it was 2,100 newly arrived.

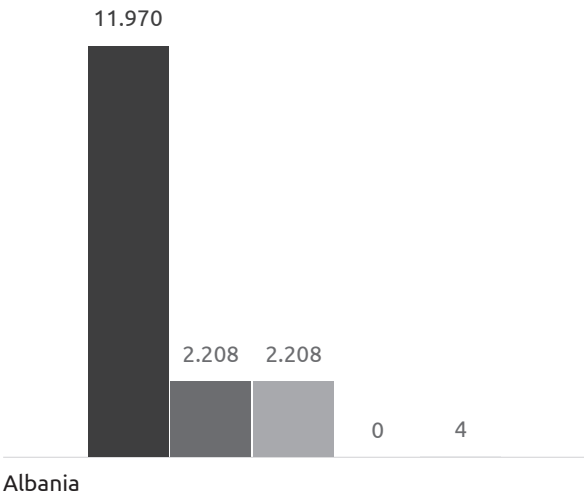
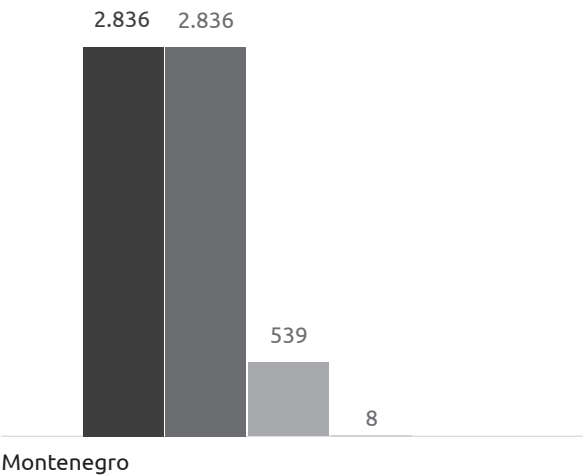
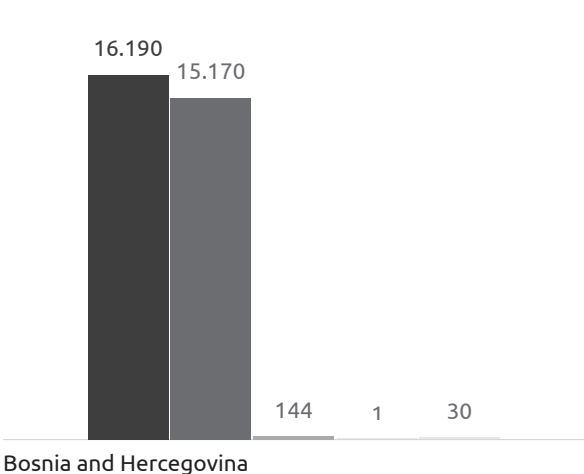
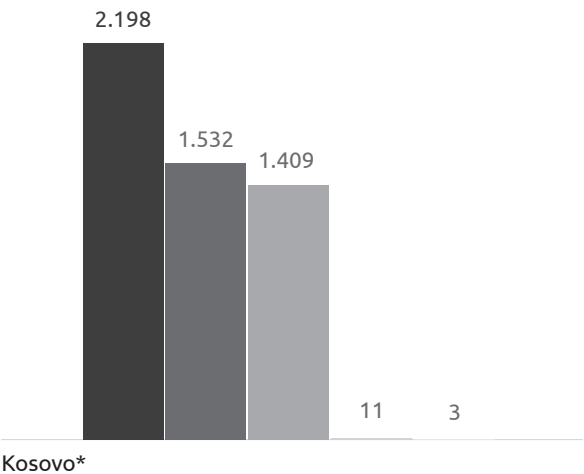
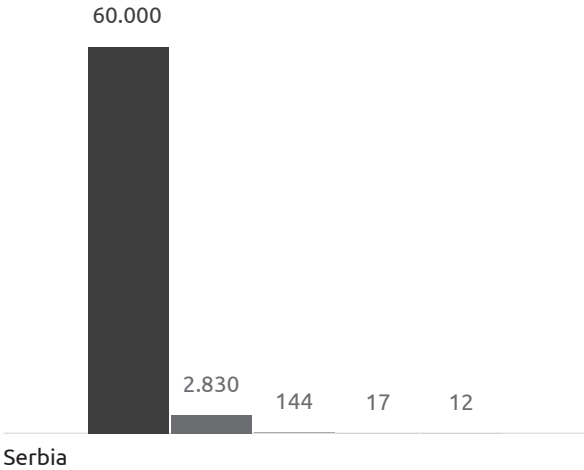
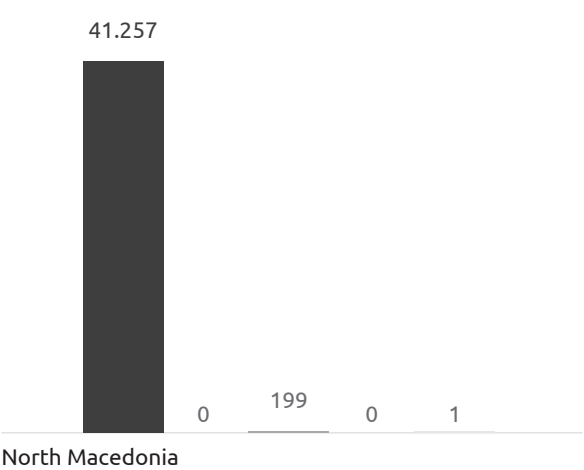
177 No. 06/L-026.

178 Migration Profile of BiH.

179 Article 35 of the Law on Asylum.

180 *Op. cit.* Migration Profile of BiH.

Asylum statistics for 2020



■ Arrival ■ Intention ■ Request ■ Refugee ■ Subsidiary

2.5. Returns

The return of the foreigners and migrants from the territory of **North Macedonia** is performed and executed to the foreigner whose legal stay in the country has been revoked or cancelled, who illegally stay or has been expelled from the territory of the country. Mol issues a return decision that is an integral part of the decision for cancellation or revocation of the stay of the foreigners, or the expulsion decision.¹⁸¹ The principle of *non-refoulement*, best interest of the child, family life, and medical conditions are applied in cases when a return decision is issued. Foreigners are returned based on their voluntary expression and preference to which country they would return and would be accepted, always taking into consideration the principle of *non-refoulement*. When a return decision is released, the foreigner is given a deadline to voluntarily leave the country. If the measure is not respected, the authorities will instigate additional measures to execute the decision that is removing the foreigner from the country.

In 2020, the authorities issued 175 decisions to foreigners to leave the country and issued 327 expulsion decisions to foreigners,¹⁸² that is an increase of 19.5% compared to 2019 (274 expulsion decisions). From the total number of expulsion decisions released in 2020, 123 expulsion decisions were issued to foreigners that were caught while they were illegally residing in the country.¹⁸³ From the overall number of issued expulsion decisions, 78 orders were issued to migrants detained in the Reception Centre for Foreigners in Skopje. It should be emphasised that no foreigner appealed the expulsion decision before the competent courts. Of the migrants and foreigners detained in the reception centre for foreigners, 31 persons were returned from North Macedonia to their country of origin (6 persons from Kosovo*, 12 from Turkey, 12 from Albania, and 1 from Germany). Additionally, in the Balkan region 6 persons were returned to Greece, 6 persons to Serbia, and one was returned to Kosovo*.¹⁸⁴ It was also reported that 590 Macedonian citizens were returned or removed from EU countries to North Macedonia, while Greece returned 2 citizens to North Macedonia.

In **Serbia**, 44 misdemeanour charges were filed for entry into the territory of the Republic of Serbia during the ban. A total of 12,547 return decisions were issued in the same period.¹⁸⁵ In 2020, the Ombudsperson/National Preventive Mechanism against Torture (NPM) was present in the realisation of 17 forced removals of 39 foreigners.¹⁸⁶ The NPM has found that aliens in the return procedure do not always have the opportunity to point out the existence of facts that would indicate obstacles to forced removal to a particular country, nor the existence of facts that may violate Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Therefore, the NPM made a recommendation to Mol to fully respect the principle of *non-refoulement*.¹⁸⁷

During 2020 in **Kosovo***, 95 decisions on forced removal were issued and 34 foreign nationals were deported based on the decision issued by the court.¹⁸⁸ In **Montenegro** in 2020, 130 deportation decisions were issued for migrants or refugees.¹⁸⁹ The number of migrants returned to their countries of origin was significantly reduced due to restrictions related to COVID-19 and the fact that the borders were closed, flights unavailable, etc.

In 2020, the **Albanian** authorities issued 40 expulsion decisions, having decreased by 25.9% when compared to 2019.

181 Translation of this decision into a language understandable to a foreigner will be provided at the request of the foreigner, while if a foreigner illegally crosses the state border or is caught after illegally crossing the state border, Mol will not provide translation of the documents related to the return of expulsion.

182 *Op. cit.* Mol answer 16.1.2-208/1 from 12 February 2021.

183 Data provided from Mol. In absence of clear explanation, we assume that in this category are included foreigners that have legally entered and resided in the country, but with time have become illegal residents due to failure of fulfilment of the conditions from the Law on Foreigners.

184 *Op. cit.* Mol answer 16.1.2-208/1 from 12 February 2021.

185 *Op. cit.* Mol, Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 11.

186 *Ibid.* p. 24.

187 Regular Annual Report of the Protector of Citizens for the Year 2020, p. 78. Available at: <https://www.ombudsman.rs/attachments/article/7007/Redovan%20godišnji%20izveštaj%20Zaštivnika%20građana%20za%202020.%20godinu.pdf>.

188 Kosovo* Police data.

189 Data obtained by request for free access to information from the Department for Foreigners, Visas and Suppression of Illegal Migration.

The Case of Selami Simsek - Albania

In late May 2020, following the extradition of Harun Çelik, another Turkish citizen who fled the country following the coup in 2016, believed to have been deported due to his alleged links to the Gülen movement, which Ankara regards as a terrorist organisation, some UN human rights officers sent a public letter to Albanian authorities on the perceived illegal arrest and extradition of Çelik, as well as calling to Albanian authorities to refrain from following a similar procedure with Simsek, who had already been arrested in the same manner. At this time, the arrest of Simsek had already led to suspicions that a similar path with that of Çelik would be followed. The letter recognised that Simsek “is likely to face detention, prosecution and, potentially, torture or other cruel, inhuman or degrading treatment”.¹⁹⁰

Simsek was arrested at Tirana International Airport due to using falsified travel documents, along with Çelik. He was released from prison on 9 March, but immediately thereafter he was transported to the Closed Centre for Foreigners, Karec. At this point in time, he had already filed his application for asylum to the Department of Borders and Migration. In his official request, he also writes that his life is endangered if he returns to Turkey.¹⁹¹

Regardless, the Albanian government rejected Simsek’s application.¹⁹² In its decision, the authorities concluded that Simsek and his family are not linked to the Gulen movement, despite the fact that his uncle was arrested in Turkey for membership in the movement. The decision states that the authorities did not find any foundational clues to point out that Simsek’s life is in danger if he were to return to Turkey. This information was made public on 2 July, but the decision dates back to 9 March 2020, the same day that the application was filed by Simsek.¹⁹³

Both Simsek and his lawyer claimed that they were not informed by the authorities about the rejection of his asylum requests and that they found out about it through the media, about four months after the decision had been made, thereby they were unable to file an appeal to the decision.¹⁹⁴ Therefore, they filed an appeal to the National Committee on Asylum and Refugees against the government’s decision.¹⁹⁵ The Committee is made up of 4 representatives of Ministries, a State Intelligence Agency representative and an Albanian Helsinki Committee (AHC) representative.

On 10 September, the Committee voted 3-1 against Simsek’s appeal with the allegation that the appeal had been filed too late. Three representatives of the Ministries voted against his request and the AHC’s representative voted in favour.¹⁹⁶ According to her, there was no proof that Simsek or his lawyer had been notified regarding the authority’s decision and therefore the argument used by the other three members of the Committee did not provide any legal grounds for the rejection of Simsek’s appeal.

Further on, he sued Mol for the decision, but the Administrative Court rejected his lawsuit.¹⁹⁷ Then, Simsek appealed the case. In early 2021, the Tirana Administrative Court of Appeal concluded that the decision taken by Mol was illegal because the institution did not follow the procedure of verifications on facts and information provided in the application and, additionally, for failing to inform the applicant regarding the rejection of his application.¹⁹⁸

In 2020, **BiH** authorities issued 1,209 decisions of expulsion with a decrease of 22% when compared to 2019.¹⁹⁹ Expulsion orders were mainly issued for illegal entry, the impossibility of determining identity or violation of border crossing legislation. With expulsion decisions, authorities were imposing measures prohibiting entry for the period between 1 to 5 years.

190 Available at: <https://exit.al/en/2020/05/26/un-human-rights-commissioner-investigating-gulenists-extradited-from-albania-to-turkey/>.

191 Available at: <https://exit.al/en/2020/01/25/alleged-gulenist-applies-for-asylum-in-albania/>.

192 Available at: <https://exit.al/en/2020/07/02/albanian-government-rejects-asylum-request-by-alleged-gulenist/>.

193 Available at: <https://www.reporter.al/ministria-mban-ne-sirtar-vendimin-e-refuzimit-te-azilit-per-gylenistin/>.

194 Available at: <https://exit.al/en/2020/07/17/alleged-gulenist-rejected-asylum-in-albania-struggling-to-avoid-illegal-extradition-to-turkey/>.

195 Available at: <https://exit.al/en/2020/08/18/alleged-gulenist-appeals-albanias-refusal-to-grant-him-asylum/>.

196 Available at: <https://exit.al/en/2020/09/16/albanian-government-rejects-asylum-appeal-by-alleged-gulenist/>.

197 Available at: <https://exit.al/en/2020/12/22/albanian-court-rejects-turkish-citizens-asylum-request-in-lawsuit-against-government/>.

198 Available at: <https://exit.al/en/2021/02/25/albanian-court-rejects-government-attempts-to-deport-gulenist-asylum-seeker-to-turkey/>.

199 *Op. cit.* Migration Profile of BiH.

Turkish expulsion case

During 2021, Turkish national M.O. placed under surveillance in the immigration centre in BiH, following expulsion order, requested the assistance of VP BiH. M.O. was apprehended by the Border Police at Sarajevo airport while trying to leave BiH and travel further. He learned that his passport was annulled by the Turkish government and that he was wanted by Interpol. M.O. informed the Border Police that he was afraid to return to his country of origin because of his connection with the Gulen movement, however, the authorities issued a decision on expulsion and a decision on surveillance without informing or giving the possibility to M.O. to apply for asylum.

After communication with VP BiH lawyers, M.O. was enabled to express his intention to seek asylum and get his asylum seeker card. At the same time, VP BiH challenged both, decisions on surveillance and expulsion. MoS adopted appeal in surveillance case and released M.O. from the immigration centre, but with milder surveillance measure requesting his daily reporting to the Service for Foreigners Affairs. After asylum registration, VP BiH requested the Service to revoke the measure, and the request was granted. M.O. doesn't have to report to the authorities on a daily basis. The expulsion case is pending before the Court of BiH, however, the authorities are not entitled to proceed with deportation until the asylum procedure is finalised.

In this case, timely legal actions prevented the forcible return of the asylum seeker to the territory where he would face serious human rights violations, but also enabled release from detention. Generally, people fleeing Turkey because of their direct or perceived connection with the Gulen movement are being granted subsidiary protection in BiH. A certain number of Turkish nationals faced extradition requests, however, VP BiH is not aware of any case where extradition was approved. Still, such cases are being closely monitored having in mind the plight of "Gulenists" in Turkey.

2.6. Readmission

In **North Macedonia** there was no change in the number of readmission agreements concluded with other countries. The readmission agreement with the EU, as mostly used, is being implemented in a satisfactory manner by the authorities of North Macedonia, mainly in direction of persons being readmitted to North Macedonia from EU countries. In 2020, from EU countries, 590 Macedonian citizens were returned, expelled, or removed to North Macedonia. Moreover, EU countries returned a third-country national from Kosovo* to North Macedonia.²⁰⁰ The authorities of North Macedonia on other hand, denied entry, returned, or removed 1,168 migrants from its territory to the EU countries.²⁰¹ Still, it is not specified if these returns were performed in accordance with readmission agreements signed between the two entities or they were simply using other mechanisms. Third-country nationals detained in the Reception Centre for Foreigners were not removed from the country based on conducted readmission agreements.

During 2020, **Serbian** Mol, in accordance with readmission agreements, received a total of 1,570 requests for the takeover of citizens of the Republic of Serbia from foreign competent authorities. Out of that number, 1,191 requests were approved for takeover, while 374 requests were not approved, and procedures for five requests were suspended. A total of 84 readmission requests were realised in 2020.²⁰² However, in its report, Serbian NPM highlighted the difficulty of implementing readmission with North Macedonia, noting that during 2020, 68 petitions for readmission of the same number of people were sent to North Macedonia, all of which were denied – most often on the basis of the lack of evidence that those people entered Serbia from North Macedonia.²⁰³

For **Albania**, the continuation of efforts to bilaterally adopt readmission agreements with countries other than the EU members is noted as one of the provisions to be fulfilled under the framework of the National Strategy on Migration. In addition, the EU Progress Report notes that Albania has been negotiating with Russian and Pakistan authorities on the creation and adoption of readmission agreements. Further on, the Albanian authorities have made a few steps forward by having drafted and sent for approval four other agreements respectively to Morocco, Afghanistan, Iraq, and Iran.²⁰⁴

200 *Op. cit.* Mol answer 16.1.2-208/1 from 12 February 2021.

201 *Ibid.*

202 *Op. cit.* Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 25.

203 NPM, Report on the Monitoring of Treatment of Migrants on the State Border With North Macedonia, p. 4. Available at: <https://www.ombudsman.rs/attachments/article/7189/Izvestaj.pdf>.

204 National Strategy on Migration and its Action Plan 2019-2022, Available at: https://www.mb.gov.al/wp-content/uploads/2021/02/Strategjia-Kombëtare-për-Migracionin-dhe-Plani-i-Veprimit_2019-2022.pdf.

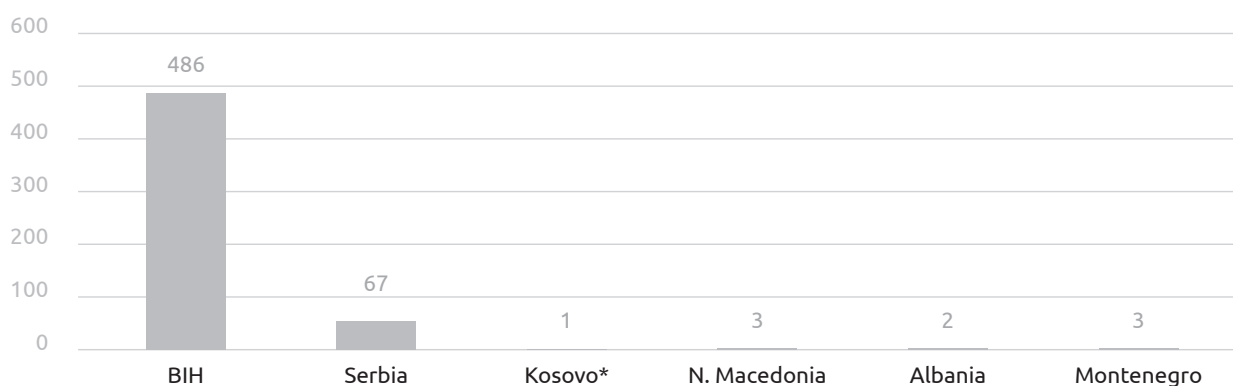
In **Montenegro**, during 2020 no new readmission agreements were signed. Montenegro has 10 agreements of readmission with non-EU countries, including all partners from WB and Turkey, and has also finished negotiations with Georgia. Requests to start readmission negotiations have been sent to Pakistan, Iran, Iraq, Morocco, and Algeria.²⁰⁵ According to Montenegrin border police data, in this period in total, in an abbreviated readmission process, 286 migrants were accepted, while 218 were returned.²⁰⁶ In the readmission procedure 43 persons, in 9 cases, were returned to Montenegro from Bosnia.²⁰⁷ In 2020, MoS of **BiH** and the Minister of Internal Affairs of Pakistan signed the Agreement on Readmission, which enables the return of citizens of this country who are staying illegally in BiH.²⁰⁸

2.7. Assisted Voluntary Return - AVR

In 2020, 303 migrants voluntarily returned from the WB to their country of origin with the help of assisted voluntary return and reintegration programme.²⁰⁹ According to IOM, 2 persons were returned from Albania, 227 from BiH, 1 from Kosovo*, 3 from Montenegro, 3 from North Macedonia, and 67 from Serbia.²¹⁰ The largest number of AVR from the WB was to Pakistan (105 persons).

In BiH, apart from the IOM assisted voluntary returns, 259 was conducted with the assistance of the Service for Foreigners Affairs, so the total number of AVR was 491 foreigners. Those returned with the assistance of IOM were mainly directed to Pakistan (102), Morocco (36), Iraq (23), and Afghanistan (17), while with the assistance of the Service for Foreigners Affairs, AVRs were predominantly conducted to Turkey (242).²¹¹ From North Macedonia, one adult male was returned to Afghanistan and 2 adult females were returned to Cuba.²¹² On the other hand, Macedonian citizens benefiting from the AVR programme were returned mainly from EU countries, and IOM assisted the return of 67 Macedonian citizens.²¹³ In Serbia, the assisted voluntary return procedure was practically suspended for most of 2020 due to COVID-19 and AVR started again in September 2020. The top four countries of AVR were Iraq (14 persons), Tunisia (13 persons), Algeria (7 persons), and Iran (6 persons).²¹⁴ In Kosovo*, due to the COVID-19 pandemic, only one adult male Iraqi citizen benefited from AVR, facilitated by IOM based on the signed Memorandum of May 2019.²¹⁵ The number of AVRs from Albania and Montenegro was also very small.

Figure: AVR 2020 (data from IOM and MoS of BiH)



205 Final Report on implementation of the Strategy for reintegration of people returned according to the readmission agreement 2016-2020, available at: <https://www.gov.me/dokumenta/ad8137f2-a059-4afb-a287-4b9c469b3f44>.

206 Data obtained by request for free access to information from the Department for Foreigners, Visas and Suppression of Illegal Migration.

207 Data obtain from the Border Police in Pljevlja.

208 Available at: <http://www.msb.gov.ba/vijesti/saopstenja/default.aspx?id=19838&langTag=bs-BA>.

209 IOM: AVVR Bulletin, December 2020, available at: https://bih.iom.int/sites/bih/files/AVRR/BILTEN/Engleski%20AVRR_BILTEN%202%2027%20Jan.pdf.

210 According to the data from the Migration Profile of the Republic of Serbia, p. 34, 66 AVRs were conducted. It is interesting that the source of this data is also IOM but numbers differ from the number in IOM Bulletin of December 2020 where 67 AVRs were identified. Additionally, the Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 26 indicates that 61 persons applied for AVR, and that 3 AVRs were conducted during 2020.

211 *Op. cit.* Migration Profile of BiH, pp. 45 and 47.

212 Data obtained from IOM Office in Skopje for AVR in 2020.

213 *Ibid.*

214 *Op. cit.* Migration Profile of the Republic of Serbia, p. 34.

215 IOM Office in Kosovo* data.

2.8. Informal Returns

The practice of returning migrants outside of a legal and/or procedural framework reportedly continued in all WB countries. In the official reports, relevant authorities use the terms “prevention of illegal entry in the country” or “attempt to illegally cross the border”, but in fact, that could be informal returns. Generally, the line between the legitimate aim of guarding the border and informal returns is very thin and very often it is hard to make a clear distinction, particularly in a situation when the independent border monitoring mechanisms does not exist.

In **North Macedonia**, there is a systematic substantial discrepancy between the figures of reported illegal crossings and presence in the transit centres, which are often almost empty.²¹⁶ The data obtained from different actors and sources speak about different numbers of informal returns, mainly to Greece. The data provided from Mol suggests that 32,100²¹⁷ migrants were “prevented from illegally entering the country” that in practice could be the number of informal returns. In its field reports, MYLA field staff in TC Vinogug counted 29,906 informal returns of migrants to Greece.²¹⁸ All migrants were intercepted from the police inside the territory of the country or while being smuggled from smugglers, brought back to Gevgelija where they were registered and returned to Greece. On the other hand, it is challenging to gather data from TC Tabanovce, because in this facility migrants usually stay one day or less and use this place to rest, accommodate, get basic medical services, food and clothes. Once they get the services, they abandon the site and continue with their attempts to try to enter Serbia. There are no data available about the number and level of informal returns conducted by Serbian authorities in North Macedonia. The two border villages, Lojane and Vakcince, are often used by migrants and smugglers to cross borders between the countries. Yet, in the past, it was practice for the Serbian authorities to use these areas to return migrants from Serbia to North Macedonia. Still, there is a loop in the data about the conditions, engagement, and happenings in this part of the country as CSOs do not operate in these areas due to security reasons. Repelled migrants from Serbia stay in the village of Lojane or Vakcince and try again to cross the border or they reach out to TC Tabanovce where they receive basic services.

In the absence of official governmental data, UNHCR data shows that thousands of migrants were pushed back to Serbia. A total of 22,164 pushbacks to **Serbia** were recorded by the UNHCR in 2020. Most collective expulsions to Serbia happened from Romania (12,125), Hungary (7,642), Croatia (1,731), and BiH (666).²¹⁹ On the other hand, the UNHCR recorded 199 pushbacks from Serbia to North Macedonia during 2020.²²⁰ For the first five months of 2021, 10,266 collective expulsions to Serbia were recorded, this time with Hungary in the first place with 5,387 pushbacks to Serbia.²²¹ On 8 July 2021, the European Court of Human Rights delivered its judgment in the case of *Shahzad v Hungary* (App. No. 12625/17) ruling that Hungary violated Article 4 of Protocol 4 concerning the prohibition of collective expulsion of aliens.²²² In the case concerning a pushback to Serbia, the Court found the violation in collective nature of applicant’s removal, after irregular but undisruptive entry, without an individual decision, despite limited access to means of legal entry lacking formal procedure and safeguards.

Constitutional Court rules Serbian authorities illegally deported group of asylum seekers

The Constitutional Court adopted a decision²²³ on 29 December 2020, partially affirming BCHR's constitutional appeal filed in 2017 on behalf of 17 Afghan citizens who were pushed back despite expressing their intention to seek asylum in Serbia. There were eight children in the group, as well as one individual over the age of 50. The Constitutional Court held that the acts of the Gradina Border Police Station on 3 February 2017 infringed asylum seekers' constitutional rights to persons deprived of liberty²²⁴ and freedom of movement.²²⁵

216 EU North Macedonia 2020 report, available at: https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/north_macedonia_report_2020.pdf.

217 *Op. cit.* Mol answer 16.1.2-208/1 from 12 February 2021.

218 MYLA field reports for: Quarter 1; Quarter 2; Quarter 3; and Quarter 4, available at: https://myla.org.mk/pub_categories/library/publications/reports/?lang=en.

219 Data gathered from UNHCR Serbia monthly snapshots January-December 2020.

220 *Ibid.*

221 Data collected from UNHCR country monthly snapshots for Serbia in 2020 and 2021, available at: <https://reliefweb.int/updates?advanced-search=%28PC209%29>.

222 ECtHR, *Shahzad v Hungary*, App. No. 12625/17, available at: <https://hudoc.echr.coe.int/fre#%7B%22tabview%22:%5B%22document%22%5D%22itemid%22:%5B%22001-210853%22%7D>.

223 Decision No. UŽ-1823/2017.

224 Art. 27(3) in conjunction with Art. 29(1) of the Constitution.

225 Specifically, Art. 39(3) in conjunction with Art. 25 of the RS Constitution. Art. 39(3) of the Constitution reads: “Entry and stay of foreign nationals in the Republic of Serbia shall be regulated by the law. A foreign national may be expelled only under a decision of the competent body, in a procedure stipulated by the law and if time to appeal has been provided for him and only when there is no threat of persecution based on his race, sex, religion, national origin, citizenship, association with a social group, political opinions, or when there is no threat of serious violation of rights guaranteed by this Constitution.”

The Constitutional Court found violations their rights enshrined in the Serbian Constitution, specifically: the right to liberty and security (Art. 27(3)) in conjunction with their rights in case of deprivation of liberty not ordered by the court (Art. 29(1)), and their freedom of movement (Art. 39(3)) in conjunction with the right to inviolability of their physical and mental integrity (Art. 25). The Constitutional Court also found that they had not been extended adequate legal aid.

The Constitutional Court concluded that the police officers' treatment of the 17 Afghani migrants had been inhuman, noting that the Pirot Misdemeanour Court concluded that they were refugees who fled their war-torn country of origin area, had expressed the intention to seek asylum and were thus eligible for protection under Serbian law. In cooperation with the Gendarmerie and Army of Serbia, the Gradina Border Police patrol on 3 February 2017 deprived the 17 migrants of liberty on the road to Dimitrovgrad. They were brought before a misdemeanour judge in Pirot, who discontinued the misdemeanour proceedings against them after they expressed the intention to seek asylum. The Serbian police were ordered to issue all of them certificates of intention to seek asylum so that they could be referred to an asylum centre. However, that night, the police subjected them to inhuman and degrading treatment as they took them to the border zone and pushed them back to Bulgaria. The Afghani migrants were forced to walk through the woods at below freezing temperatures, without any documents, all of which, including those issued in Serbia, the police had seized.

During 2020, there was a limited presence of civil society organisations at borders and in Serbian border areas with North Macedonia, Bulgaria, and Montenegro.²²⁶ Regardless of the situation during 2020 the official border monitoring mechanism has not been established yet in Serbia.

Refoulement of asylum seekers

A group of asylum seekers from Algeria, Morocco, and Iran contacted BCHR on 3 April 2020, claiming they were unlawfully expelled to North Macedonia from Serbia. They claimed that they were unlawfully driven in an official vehicle from the Tutin Asylum Centre where they had been staying, to the border with North Macedonia and expelled. Allegedly, the representatives of the state authorities had informed the group, on the day of the incident, that they would be transferred to RTC in Preševo, but after a long ride, the police stopped the vehicle outside an inhabited area and told them to get out and not to come back to Serbia. The group later realised they were in North Macedonia via a phone GPS.

In view of the above, BCHR contacted Serbian Ombudsman proposing that a procedure in line with his mandate be initiated and he was asked to determine whether the action was in contravention of the *non-refoulement* principle.

The Ombudsman concluded that the Commissariat and Mol have "failed to prevent the free movement of persons who may be carriers of COVID-19", focusing on provisions of the Decision on Temporary Restriction of Movement of Asylum Seekers and Irregular Migrants Accommodated in Asylum Centres and Reception Centres in the Republic of Serbia. He established that Commissariat and Mol gave the Ombudsman different information with regards to "transfer of sixteen persons-migrants" from Tutin Asylum Centre to RTC in Preševo.²²⁷ Furthermore, the Ombudsman recommended to the Commissariat to determine why the RTC in Preševo did not inform the competent authorities about the "disappearance of 16 persons-migrants". He also recommended to the Commissariat and Mol that they should investigate the reasons for the "omissions in their work during the relocation of 16 persons-migrants", and finally to follow the rules to combat the spread of the pandemic in the future.

Hence, in this case, the Ombudsman did not identify and/or recommend anything regarding the collective expulsion and the *non-refoulement* principle.

226 Asylum Information Database, *Country Report: Serbia*, 2020 Update p. 20. Available at: https://asylumineurope.org/wp-content/uploads/2021/03/AIDA-SR_2020update.pdf.

227 Recommendation and determination of the Ombudsperson, no. 32962 of 7 October 2020, available in Serbian at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6811-irs-i-up-rs-nisu-spr-cili-sl-b-dn-r-nj-igr-n-prili-pr-sh-iz-dn-g-u-drugi-c-n-r-z-zil>.

During 2020 in **Kosovo***, the Border Police increased the presence and border control throughout villages alongside the western border with Albania.²²⁸ As a result, 23 incidents, carried out by Kosovo* authorities, involving 210 individuals were recorded. These migrants were pushed back to Albania. Other 10 pushback incidents were recorded to be carried out by Serb authorities, where 72 individuals were pushed back to Kosovo*, while 1 pushback incident involving 3 individuals was recorded from Montenegro to Kosovo*.²²⁹ 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 larger than reported. However, in no case did applicants report being abused or mistreated by the police in Kosovo*. They declare that they were just pushed out of the territory, but they managed to enter again by changing the route or just after a couple of hours of rest.

Pushbacks from Croatia to **BiH** continued in 2020, but informal returns from Slovenia and Italy were also recorded. The Border Violence Monitoring Network (BVMN) identified a number of pushback incidents involving not only adults but children as well. In their report, Black Book of Pushbacks 2020, BVMN published numerous testimonies collected over the year which clearly indicate a pattern of forcible returns that are happening regularly. As an illustration, on 7 October 2020, 50 to 60 persons originally from Afghanistan were forcibly returned, then again on 9 November 2020, 7 unaccompanied children from Palestine, Iran, and Algeria. On 14 November 2020, BVMN registered 110 persons from Afghanistan, Pakistan, and Bangladesh who were pushed back to BiH. The police was repeatedly using violence including beating, kicking, destruction of personal belongings, or threatening with guns.²³⁰

During 2020, the Civic Alliance (CA) monitored the borders with BiH and Serbia. At the beginning of the year, the number of people coming to the north was smaller than during the year. However, with the appearance of COVID-19, intercity transportation was closed from March to May. In that period, only a few people were recorded walking from Podgorica to the border. After the measures became less strict and the intercity transport was opened, a mass movement of people from Podgorica to Pljevlja began in the summer. According to the data of the Border Police in Pljevlja in 2020, 261 persons were prevented from entering Montenegro from Bosnia, and 7 from Serbia, while 111 persons were prevented from leaving Montenegro to Bosnia, and one to Serbia.²³¹ In 2020, CA caseworkers recorded around 120 returnees from borders with BiH and Serbia.²³²

In 2020, as in previous years, people usually went towards BiH, which led to more returns from that country. After that, they would stay in Pljevlja for a couple of days, just to either try to enter Bosnia again or return immediately to Podgorica. It was very surprising that the families with small children entered Bosnia relatively successfully at the first attempt. Regarding border police conduct, no serious cases of harassment were recorded. The remarks mostly involved pushing and similar actions by the Bosnian police. No one had serious or visible injuries. Medical assistance was provided several times, but due to injuries caused by long and strenuous walking, due to exhaustion and fatigue.

Medical assistance to migrants that have failed to leave Montenegro

After failing to leave Montenegro and move on to BiH, migrants are forced to return to Pljevlja on foot, in inaccessible terrain, and difficult climatic conditions. It leads to fatigue, starvation, injuries, etc. They often end up in a local hospital due to health problems. One such case is a family of nine from Afghanistan, where an elderly woman, after several hours of walking, suffered a severe knee injury and was hospitalised. Her daughter and grandchildren were also very exhausted and hungry. They were kept in the hospital for hours and after detailed analysis and therapy were released. The medical staff in Pljevlja always and without problems provides assistance to these persons, even to those who do not have any personal documents.

Taking into consideration that informal returns happen at the **Albanian** borders, there are no official exact numbers provided on them. There are reports of migrants being returned at the borders without even conducting the pre-screening procedure. Additional reports provide that pushbacks happen even further inland, especially if the

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

229 CRP/K Data.

230 BVMN Black Book Pushbacks Report 2020, available at: <https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aasc%3AUS%3Ab10a04a4-25dd-45f1-8b2d-e9c25946cb44#pageNum=35>.

231 Data obtained on the request for free access to information from the Border Police in Pljevlja.

232 However, that number can be even higher because it is very difficult to follow up every person who is returned from the border.

apprehended migrants have not applied for asylum within their first 24 hours in the country.²³³ Migrants add that Frontex has aided the Albanian border guard in carrying out these pushbacks, but, so far, Frontex' officials have denied all accusations.²³⁴ The Border Violence Monitoring Network witnessed and reported 6 cases of pushbacks involving multiple migrants carried out by the Albanian authorities in its green borders with Greece during 2020. Whereas, so far, up until May 2021, there were 6 other reports of pushbacks into Greece.²³⁵

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

COVID – 19 crises has strongly impacted to the migration situation in the WB region and the position and treatment of migrants in the WB countries. Imposed measures of the restrictions of movement slowed down migration flow, migrants stayed longer in the countries and lot of reception and asylum centres were overcrowded. Additionally, asylum procedures were stopped and delayed. In the second part of 2020 the situation has been stabilized and authorities continued with their regular activities.

During the state of emergency due to the COVID-19 pandemic in **North Macedonia**, asylum seekers were kept in quarantine for 25 days in TC Vinojug, as a precaution measure adopted by the authorities prior to their transfer to AC Vizbegovo in Skopje. However, some problems were registered, mostly associated with the lack of interest of institutions to carry out the transfer of asylum seekers after the quarantine period from Vinojug to Skopje, always using different excuses for delay. This measure is effective due day, but based on the data from the field, the period for quarantine is set to 14 days.²³⁶ During the pandemic, the Department for Asylum started to conduct interviews for status determination of applicants using online available tools. Decisions on status determination were usually accompanied by an automatic ruling of expulsion without quality assessment of whether an individual may be subject to persecution upon return. Throughout the year, the administrative and the higher administrative courts continued to avoid ruling on the merit of asylum applications, despite having the requisite authority. They routinely returned the cases to Mol for further review.²³⁷ There was no granted state free legal aid for individuals in the asylum procedure.

The state of emergency and COVID-19 measures had their impact on asylum procedures in **Serbia**. Due to the actions taken by public authorities during the state of emergency, a significantly reduced number of people (as compared to the first three months of 2020) requested international protection from the competent authorities and restrictions of movements of asylum seekers and migrants were introduced.²³⁸ During the first pandemic wave, there were no COVID-19 cases in the centres and after lifting restrictive measures in the centres there were 22 approved cases by the end of 2020.²³⁹ In February 2021, international and local organisations assisted refugees and asylum seekers to apply for vaccination against COVID-19.²⁴⁰ Vaccination of refugees and migrants in Serbia, as a pioneering step in Europe and the world, was an important sign of Serbia's support for refugees, showing its commitment to protect and integrate refugees and asylum seekers in Serbian society.

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 with a certain number of persons. Freedom of movement was restricted to asylum seekers in the same manner as to the 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 activities, including interviews for refugee status determination. Asylum seekers were placed in three ACs 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

233 Albania Country Report on Human Rights Practices. U.S. Department of State, available at: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/albania/>.

234 Illegal Pushbacks and Border Violence Report, BVMN, May 2020, available at: <https://www.ecoi.net/en/document/2038160.html>.

235 Summary and Analysis of Pushbacks and Internal Violence in the Balkan region, BVMN, available at: <https://www.borderviolence.eu/category/monthly-report/>.

236 There is no formal decision adopted by the authorities to reduce the length of days spent in quarantine from 25 to 14 days, but in TC Vinojug asylum seekers are quarantined for 14 and then transferred to AC Vizbegovo in Skopje.

237 US State department 2020 report – North Macedonia, available at: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/north-macedonia/>.

238 Decision on the Temporary Restriction of Movement of Asylum Seekers and Irregular Migrants Accommodated in Asylum and Reception Centres in RS, "Official Gazette of the RS", No. 32/20.

239 *Op. cit.* Report on the implementation of the Strategy for Combating Irregular Migration for the period 2018-2020, p. 18.

240 More in BCHR Right to Asylum in the Republic of Serbia: Periodic Report January- March 2021, p. 52, available at: <http://azil.rs/en/wp-content/uploads/2021/05/Periodic-Report-January-March-2021.pdf>.

accommodated mostly male asylum seekers, i.e., single men aged 18 to 40, up to 90 people, while AC in the village of Magure up to 88 people. Upon lifting the measures by the end of the second trimester of 2020, applicants just like other Kosovo* citizens were free to move, respecting the measures set in place for COVID-19 safety.

In **BiH**, given the generally limited capacity of MoS when it comes to the process of registering asylum seekers, the situation with COVID-19 further complicated and slowed down the procedure, leaving asylum seekers without the opportunity to access the asylum procedure for a longer period of time. Bearing in mind that asylum seekers exercise all rights deriving from their status on the basis of the asylum seeker's card obtained after registration with MoS, this resulted in these persons not being able to access guaranteed rights for a long period of time except basic humanitarian rights provided in reception centres. This situation has generally caused a great deal of frustration among people in need of international protection.

In **Montenegro**, the COVID-19 pandemic certainly affected the work of the reception centres, the Directorate for Asylum, but it also affected the migratory flows.²⁴¹ The number of migrants was significantly lower compared to the previous year, and this is mostly caused by the temporary measure of the National Coordination Body from March, which prohibited the entry of foreigners in Montenegro. The camps were closed to receive new people, but those who were already inside were also forbidden to go out. If people wanted to leave the camp and move on, they were allowed to do so, but with the warning that they would not be allowed to re-enter. Foreigners who entered the country were placed in the Shelter for Foreigners where they were in quarantine. The Directorate for Asylum continued to work on administrative issues and decisions but did not receive applicants for international protection even two months after the end of the first wave of the pandemic. Interviews before the Directorate for Asylum were suspended, and the entire procedure was stopped. Once movement was allowed, there was a very large influx. From September 2020 until the end of the year, 1,134 persons expressed their intention to apply for asylum and 130 persons applied for asylum.²⁴²

Due to the pandemic, the **Albanian** National Reception Centre for Asylum Seekers was temporarily closed to new admissions. Some migrants reported to journalists that they were not provided shelter within the centre due to the COVID-19 regulations, thus being forced to sleep on the streets and beg the few people that passed by for food and water. Others claimed that the admission process in these centres was long and tiring as they were constantly redirected among state institutions without being able to find a solution for their circumstances. Additionally, to prevent the spread of COVID-19, possibilities to conduct monitoring visits were scarce, thus authorities lacked the mechanisms to keep them more accountable regarding the fulfilment of living conditions for migrants. International and national CSOs continued to provide aid to the migrants, both by keeping them informed about the situation presented by the pandemic in their native languages through posters, as well as by providing them and border authorities with necessary materials to subdue the spread of the disease among this extremely at-risk category.

2.10. Western Balkan Response to the Situation in Afghanistan

After the withdrawal of international forces, the Taliban occupied Afghanistan, that was followed by a mass evacuation of Afghans who cooperated with foreign armies, NATO and other international organizations. Regarding the situation in Afghanistan the State Department issued two statements - the Joint Statement on Afghanistan that was signed by all WB countries except BiH and the Joint Statement on Afghanistan Evacuation Travel Assurances, signed by all WB countries. Among the WB countries, only North Macedonia, Kosovo*, and Albania publicly obliged on temporary admission, reception, and accommodation of Afghan civilians and the first groups of evacuated Afghan refugees arrived in the countries at the end of August 2021.

On 17 August 2021, the Government of the Republic of **North Macedonia** decided to accept 450 Afghan citizens, women and children of families of members of humanitarian organisations, human rights organisations, journalists, and others engaged in peacekeeping in the last 20 years in Afghanistan,²⁴³ while two days later, on 19 August, Prime Minister of the Republic of North Macedonia stated that the country can accept 1,800 Afghanistan refugees.²⁴⁴ The government plan to place Afghan refugees in motels, hotels, and other facilities, the costs of which will be covered by international organisations and the USA. According to government plans, the Afghans will be temporarily stationed in the country until they are transferred to the USA or third countries, which will be coordinated with allies and strategic

241 At the beginning of the pandemic, the arrival of migrants at the exit point in Pljevlja was almost non-existent.

242 Most of them are from Afghanistan, and the rest are mostly from Pakistan, Bangladesh, Iran, Nepal, Morocco.

243 Press release from the site of the Government: <https://vlada.mk/node/26179>.

244 Available at: <https://vesnik.com/node/212033>.

partners. The government has decided to exempt the citizens of Afghanistan from visa taxes. The first group of 149 Afghans came to Skopje on 31 August.²⁴⁵

It is estimated that by the end of this process **Albania** will temporarily shelter up to 4,000 Afghan citizens.²⁴⁶ Since 27 August 2021, the day when the first plane with 121 Afghan citizens arrived, 6 more planes have arrived.²⁴⁷ The first group of arrivals, according to media reports and the Albanian Ministry of Foreign Affairs, is currently accommodated in several hotels in the tourist area between Durrës and Kavaja. Meanwhile, the rest of the Afghan citizens are sheltered in student dorms in “Qyteti Studenti” in Tirana and some of them are accommodated in Shëngjin. Most of these citizens are civil society activists, journalists, translators, teachers, members of humanitarian and cultural foundations, students, children, and minors. The majority are women and girls. According to reports from the Ministry of Foreign Affairs, Albania will serve as a transit country for Afghan citizens, whose final destination will be the USA. The Prime Minister of Albania stated that these citizens have the opportunity to qualify for a USA visa and therefore their stay in Albania is temporary. He also stated that if any of the Afghan citizens sheltered in Albania wish to remain in the country longer than the prescribed year, they will be welcome to stay.²⁴⁸

Regarding the status that these citizens will have in the country, the Albanian government set up a task force, through a special decision, which will manage the stay of Afghan political refugees in Albania.²⁴⁹ The task force will be headed by the Ministry of Europe and Foreign Affairs, and will also contain the heads of six other ministries: Ministry of Interior; Ministry of Defence; Ministry of Finance and Economy; Ministry of Education, Youth and Sports; Ministry of Health and Social Welfare and Ministry of Tourism and Environment. Additionally, the decision specifies that citizens with Afghan citizenship or nationality and stateless persons with temporary or permanent residence in Afghanistan, who enter the territory of Albania *en masse* and coordinated by international partners, due to war, general violence, and internal conflict, characterised by human rights violations and which require protection by the Republic of Albania will be granted the status of temporary protection. When obtaining this status, they are entitled to a one-year stay in the country. Regarding their freedom of movement, the decision notes that “the asylum and refugee authority may impose restriction on the freedom of movement, if it deems it necessary”.

Institutions in **Kosovo*** prepared for the admission of about 2,000 Afghans. It was planned that persons from Afghanistan would be mainly accommodated in the former KFOR camps in Prizren, Vucitrn, and Kosovska Mitrovica and in the newly renovated camp in Vranidol. The first 111 Afghans came to Pristina on 30 August and were accommodated in a military base near Uroševac.²⁵⁰ In Kosovo*, they were also granted the status of temporary protection,²⁵¹ but despite the situation in Albania, the first groups of evacuated Afghans were *de facto* detained.²⁵²

The Government of **Montenegro** explained that Montenegro has not committed itself to temporarily accepting people from Afghanistan since such an obligation is not foreseen in this joint statement.²⁵³ So far, there has been no official statement by the Government of the Republic of **Serbia** on temporarily admission, reception, and accommodation of Afghan civilians. Only the President of Serbia stated that he has nothing against refugees if, as he said, they are really refugees, but he also added that Serbia will not be a “parking lot for anyone who will come from abroad”.²⁵⁴ In **BiH**, there have been neither official announcements nor statements about the reception or possible distribution of Afghans. Only the Director of the Service for Foreigners announced that their officers will treat Afghans like all other migrants trying to enter the country illegally.²⁵⁵

245 Information is available at: <https://rs-lat.sputniknews.com/20210831/u-skopje-stigla-prva-grupa-avganistanaca-1129390331.html>.

246 Available at: <https://puneteshashtme.gov.al/al/zyra-e-shtypit/lajme/ministria-xhacka-pret-avionin-e-pare-me-qytetaret-afgane-krenare-per-solidaritetin-e-treguar-nga-shqiptaret-koordinuam-nje-operacion-humanitar-ne-kohe-rekord>.

247 Available at: <https://abcnews.al/mesues-perkthyes-dhe-gazetare-kush-jane-275-afganet-qe-erdhen-ne-shqiperi/>.

248 Available at: <https://www.dw.com/sq/shqip%C3%ABri-mbrojtje-e-p%C3%ABrkohshme-p%C3%ABr-refugjat%C3%ABt-politik%C3%AB-afgan%C3%AB/a-58983351>.

249 Council of Ministers Decision is available at: <https://kryeministria.al/newsroom/vendime-te-miratuara-ne-mbledhjen-e-keshillit-te-ministrave-date-25-gusht-2021/>.

250 Information is available at: <https://rs-lat.sputniknews.com/20210829/izbeglice-iz-avganistana-stigle-u-pristinu-video-1129321182.html>.

251 Government Decision on temporary protection is available at: <https://kryeministria.rks-gov.net/wp-content/uploads/2021/08/ENG-Vendim-26.pdf>.

252 More about *de facto* detention is available at: <https://kosovotwopointzero.com/en/afghan-evacuees-in-kosovo-de-facto-detained/> and <https://www.evropaelire.org/a/afganet-ne-kosove-te-mbyllur-ne-kampe-/31446233.html>.

253 Available at: <https://www.vijesti.me/vijesti/politika/562775/mvp-crna-gora-u-ovoj-fazi-nece-primati-izbeglice-iz-avganistana>.

254 Available at: <https://rs.n1info.com/vesti/vucic-migranti-iz-avganistana-nece-dolaziti-u-srbiju-odakle-takva-ksenofobija/>.

255 Available at: <https://radiosarajevo.ba/vijesti/bosna-i-hercegovina/ujic-odgovorio-da-li-se-ocekjuje/427448>.

3. Final Remarks and Recommendations

When we compare the data and the facts from this and the previous two BRMC Policy Papers, we can conclude that after the slowdown and stagnation in 2020, which were significantly caused by the COVID-19 pandemic, there were some improvements, particularly in the area of regional cooperation in the WB region. 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. Besides the public health crisis, migration through the “Balkan migration route” was impacted by the new refugee crisis of persons from Afghanistan. For the first time, temporary status was introduced (in Albania and Kosovo*) for the Afghan refugees currently awaiting transfer to the USA and other countries.

However, besides the positive developments, given that these issues are complex and that one year is not a long enough period to implement fundamental changes, many recommendations from the first and second BRMC Policy Papers are still relevant and awaiting implementation. Having in mind the magnitude of the challenges posed by migration, as well as the real individual capacities, strengthening regional cooperation and joint participation in debates within the European Union could be of particular importance for improving the situation in certain areas of migration. It seems particularly important that the region uses the potential of the regional approach to particular issues while respecting the specificities that arise from internal frameworks.

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 still needed, especially through cross-sectoral cooperation. This time, we will slightly adapt and repeat the recommendations from the previous period, which we believe are still relevant and a priority for implementation.

General recommendations to the WB states:

- National regulations governing the position of foreigners should contain certain more favourable conditions for regulating temporary status (e.g., a temporary residence for humanitarian reasons) and foreigners who have been the subject of smuggling, and who are ready to cooperate with the competent prosecuting authorities regarding the detection of this criminal offence.
- 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.
- Registration of the newly arrived migrants must be followed by systematic protection-sensitive profiling and referring identified migrants that need international protection to national protection mechanisms.
- It is necessary to have a more efficient registration of migrants and a constructive regional solution for assessing the profiles of migrants in the WB region.
- It is necessary to further improve border infrastructure and accommodation facilities at 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 trainings for civil society organisations (CSOs) 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 CSOs 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 a 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 vaccination, general information on how the virus is transmitted, travel risks and measures to protect and keep personal hygiene.
- 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 that 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 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, 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 in 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, BCHR was awarded the *Bruno Kreisky Prize* for 2000. BCHR is a member of a number of coalitions and networks such as the Association of Human Rights Institutes (AHRI), Human Rights Houses, 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 to 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 levels.

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