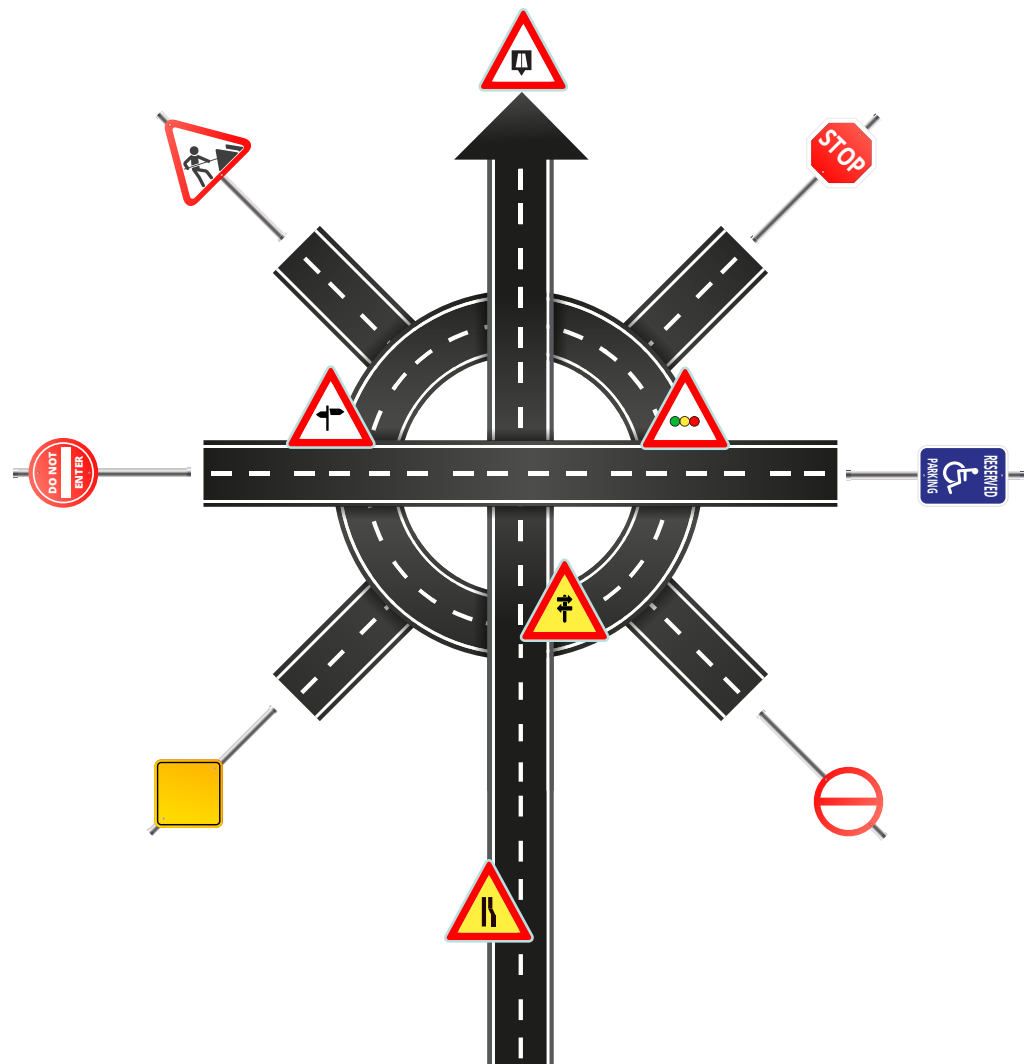


Analytical report

Lessons learned from the 2015-2016 migration situation in the Western Balkan region

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ABSTRACT

The Balkan migration route was one of the main routes for irregular entry into Europe during the unprecedented inflow of refugees and migrants between May 2015 and March 2016. The media called it ‘the biggest movement of refugees and migrants in the region since the aftermath of World War II’.¹

In spite of the EU-Turkey Statement of March 2016 and the subsequent closure of the “humanitarian corridor” through the Balkans, leading to reduced numbers of people on the move, the key importance of this route and the pressing need to improve migration policies in the Balkan region persists. Even more so, the continuous illegal pushbacks of people who entered irregularly and restrictions on access to asylum procedures remain common throughout the region.

Border restrictions, pushbacks, and non-functional readmission agreements (systematic refusal of readmission requests) have characterised national migration and asylum policies in the Balkans since March 2016, and negatively influence bilateral and multilateral relations by reaffirming a lack of solidarity, cooperation and awareness of the benefits that a joint approach to migration challenges could bring to individual countries and the entire region. A whole range of issues that have important regional dimensions - including access to asylum procedures, standards for fair and efficient asylum processes, readmission, protection of vulnerable groups, referral mechanisms - remain largely unaddressed to date. Although new asylum laws were introduced in Serbia and North Macedonia, which partially address the need for harmonisation with the EU Acquis, any form of dialogue or discussions on asylum and migration policies in the Balkans has occurred only sporadically and usually without involving civil society actors. Moreover, it has had little impact on actual policy-making and limited success in terms of establishing sustainable and effective regional networks.

At the same time, the most recent experience of the 2015-2016 migration challenges tested the capacities of the authorities along the route and improved their capacity to adapt and to be flexible in the context of developing situations. These positive practices should form part of the institutional memory in the national government bodies of the Western Balkan states.

This report analyses the responses of three countries along the Balkan route (North Macedonia, Serbia and Croatia), as well as the lessons learned in the areas of entry and registration of new arrivals, migration management and transit of people on the move.

¹ E.g.: www.cadtm.org/Nowhere-to-run-The-worst-refugee-crisis-since-the-second-world-war

CONTENTS

Introduction.....	3
North Macedonia.....	5
Serbia.....	8
Croatia.....	11
Policy implications, conclusions and recommendations.....	14
Bibliography/References.....	16

INTRODUCTION

The number of people transiting through the Balkan route increased significantly as of May 2015. Having crossed the Aegean Sea from Turkey to Greece, they continued their journey through the Balkans in order to reach Central and Western Europe. While the WB countries had different policies in place, one common approach was presented to the public, namely to allow as many migrants to enter the country as the next country was willing to accept. They pursued this approach from the very beginning until the official closure of the Balkan route in March 2016. For its part, Greece, which was undergoing a serious economic crisis, transported thousands of people from the islands of first arrival to its mainland. Once there, usually in Athens, these people, mainly Syrians, boarded buses that would take them further north.

The three countries that are the subject of this research (North Macedonia, Serbia and Croatia) used to share the legal system of the Yugoslavian Federation. Their approach to migration thus arose from a common historical context, albeit with some geographic differences. Over the previous 20 years, the region had experienced all types of migration, ranging from international (mainly emigration) to internal (from rural to urban areas), from forced (refugees, IDPs and forced returnees) to voluntary and from legal to irregular migration. In spite of all their efforts to regulate migration properly, the countries were lacking a comprehensive policy and integrated approach to it.

When the migrants and refugees entered their territories, the countries followed the developments at the borders and mobilised trains, buses, or even taxis to facilitate the transit. Their ability to organise the transit in an orderly manner was described as a humanitarian approach. The transitory nature of the flows seemed to have little impact on them beyond the logistics of registration, accommodation and transportation.²

CONTEXT AND PURPOSE

The unofficial “humanitarian corridor” opened in 2015 was used by some 700,000 people originating from the Middle East, West and South Asia and Sub-Saharan Africa to transit the Balkan countries on their path towards Central and Western Europe. Greece, North Macedonia, Serbia and Croatia saw thousands of people arriving at their borders on a daily basis. EU policies directly influenced the situation on the ground, as the Balkans became a “black hole” for refugees and migrants on their way from one EU country to another. The migration policies in the Balkan countries were unclear and based on *ad hoc* decisions that created confusion and highlighted the urgent need for appropriate migration management in the region.

The signing of the EU-Turkey Statement in March 2016 resulted in a reduction of the number of people transiting irregularly and prevented further movements towards the Western Balkans (WB), without completely stopping those on the move. As a series of cascading border restrictions in North Macedonia, Serbia, Croatia and Slovenia ‘closed’ the WB route, the number of people moving dropped dramatically. Those still trying to travel north were pushed onto more dangerous, irregular routes in remote areas. Many of them were subject to police violence.³ Such practices are not unheard of within the EU itself, but the trend carries worrisome implications for countries still consolidating democratically and developing the rule of law. While many nowadays perceive the “crisis” in the Balkans to be over, thousands of migrants remain in limbo, stranded in countries along the route.⁴

This analytical report aims to conduct a regional analysis of the policy responses to irregular migration across the WB in order to identify the problems faced by refugees and migrants and suggest possible ways to address them, taking into account the characteristics of individual regions and lessons learned from international experiences.

The report will first describe the most relevant policies, which were in place during 2015 and 2016, focusing particularly on North Macedonia, Serbia and Croatia. It will then examine the factors contributing to the continued transit migration through certain WB countries. Thereafter, the report will identify the main challeng-

² CSenada Šelo Šabic, The Impact of the Refugee Crisis in the Balkans: A Drift Towards Security Institute for Development and International Relations, Croatia, Available at: https://bib.irb.hr/datoteka/914310.The_impact_of_the_refugee_crisis_in_the_Balkans.pdf

³ OXFAM, Closed borders The impact of the borders closures on people on the move, with a focus on women and children in Serbia and Macedonia Available at: https://d1tn3vj7xz9fdh.cloudfront.net/s3fs-public/file_attachments/closed_borders_eng_low.pdf

⁴ Alice Greider - Outsourcing Migration Management: The Role of the Western Balkans in the European Refugee Crisis, Available at: www.migrationpolicy.org/article/outsourcing-migration-management-western-balkans-europes-refugee-crisis

es faced by people on the move in terms of access to the territory as well as to the procedures and services needed. It will further propose measures to address those challenges, taking into account the peculiarities of each individual country and the relevant international experience. Finally, it will analyse the inter-state relations and cross-border cooperation within the WB region.

RELEVANCE

The variety of policy responses introduced at the end of 2015 and maintained throughout 2016-2018, ranging from coordinated border controls by the most affected countries to a number of policy actions supported by the EU, contributed to a considerable reduction in the number of third-country nationals crossing the WB. In 2017, only 26.979 irregular border crossings were detected in the WB, compared to 270.595 in 2016.⁵

In its 2018 country reports for Serbia and North Macedonia, the European Commission underlines that the lack of systematic registration of migrants remains one of the key challenges in these countries, along with the need to ensure protection-sensitive profiling. The document further notes that cases of pushbacks at the borders are continuously reported. This means that migrants are not systematically registered and that the identification and further referral of those in need of protection is not functioning properly. In the absence of an adequate system for managing irregular movements and effective readmission agreements with the neighbouring countries, illegal returns and pushbacks have continued.⁶

As the WB countries continue to struggle with the consequences of the large-scale forced population movements experienced in the early 1990s, they were not prepared for the substantial mixed migration flows experienced recently. A considerable number of migrants have remained in the WB region. The nascent legislation, asylum systems and migration policies were insufficient to address this development.⁷ Moreover, the WB countries seem neither able nor willing to process the potential number of asylum applications that the migrants transiting the region may file at present.⁸ At the same time, migration control remains a key precondition within their efforts to accede the EU.⁹

The coordinated closure of the WB route in March 2016 did not put an end to the pushbacks and widely reported human rights violations against migrants.¹⁰ Mainly Syrian, Afghan and Algerian nationals have recently used a new migration route through Albania and Bosnia and Herzegovina. By the end of September 2018, more than 16.000 asylum seekers and migrants crossed these two countries, as compared to just 259 over the same period of 2017.¹¹ According to UNHCR, 40.000-50.000 refugees and migrants from Asian and African countries are caught in the region between Greece and Croatia at present, trying to reach Western Europe.¹²

METHODOLOGY

This report is based on the statistical data of international organisations such as UNHCR, IOM, ICMPD, FRONTEX (risk analysis) and other EU official data. It equally builds on the relevant national legislation of North Macedonia, Serbia and Croatia, as well as official reports by NGOs and state bodies. Additional analytical reviews and articles as well as media reports were also taken into consideration.

The analysis includes both quantitative and qualitative methods, including semi-structured interviews and case studies. It aims to ensure the reliability of data and a comprehensive review of the relevant literature, legal texts and national strategies.

⁵ FRONTEX, Western Balkans Annual Risk Analysis 2018, Available at: https://reliefweb.int/sites/reliefweb.int/files/resources/WB_ARA_2018.pdf

⁶ EC 2018 Country Report on Macedonia, Chapter 24, Available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-the-former-yugoslav-republic-of-macedonia-report.pdf>

⁷ UNHCR, Available at: www.unhcr.org/mixed-migration-western-balkans.html

⁸ Neža Kogovšek Šalamon, Asylum systems in the Western Balkan Countries Published in: International Migration, Volume 54, Issue 6, December 2016, Pages 151–163.

The article is available at: <http://onlinelibrary.wiley.com/doi/10.1111/imig.12273/abstract>.

⁹ ECRE Migrant control in the Western Balkans – EU borders on the move, Available at: www.ecre.org/migrant-control-in-the-western-balkans-eu-borders-on-the-move/

¹⁰ MSF report discloses violence by EU border authorities along 'Balkan Route' Available at: www.ecre.org/msf-report-discloses-violence-by-eu-border-authorities-along-balkan-route/

¹¹ Bleak Bosnian winter for migrants camped out on new route to Europe Available at: www.irinnews.org/news-feature/2018/10/31/bleak-bosnian-winter-migrants-camped-out-new-route-europe

¹² ECRE Migrant control in the Western Balkans – EU borders on the move, Available at: www.ecre.org/migrant-control-in-the-western-balkans-eu-borders-on-the-move/

NORTH MACEDONIA

ENTRY AND REGISTRATION OF NEW ARRIVALS

The exact number of people that transited North Macedonia in 2015 and early 2016 cannot be determined as their registration only began in June 2015. Nevertheless, several hundred thousand people are believed to have passed through over this period. According to UNHCR, which began to monitor the border crossing point of Gevgelija (Greek border to North Macedonia) on 1 July 2015, 697.228 migrants crossed that border. According to the UN Resident Coordinator's office, an estimated 750.000 migrants entered North Macedonia in 2015.¹³ The approximate number of daily arrivals ranged from 10.000 (Oct 2015)¹⁴ to 5.000 (Nov 2015).¹⁵

Already in April 2015, North Macedonia was receiving several hundred migrants from Greece on a daily basis. Until that moment, the country had been managing the migration flow by either preventing the migrants from entering the state territory or by allowing them to transit to Serbia in an undetected and unregistered manner.¹⁶ This practice kept the official number of irregular border crossings detected at the border relatively low as compared to the numbers of transit migrants documented by Frontex in its reports. It also helped to avoid the necessary bureaucratic procedures (registration, information provision, reporting, processing etc.) and legal obligations related to individual case management. The chosen approach also saved the costs potentially arising from the stay of irregular migrants and the related mobilization of police forces, while equally avoiding any additional complications linked to their removal. However, it also resulted in insufficient protection of the migrants who frequently became subject to violence, mistreatment and other dangers on their route.

As the number of migrants was increasing from one day to the next, they were no longer allowed to use any kind of transport, as they were undocumented. The migrants consequently started to walk all the way across the country from the Greek-North Macedonian to the Serbian border in the North.¹⁷ On 24 April 2015, 14 people died when a train hit a group of people walking along the railway track.¹⁸ These events triggered intense pressure by the public. On 18 June 2015, the National Assembly introduced new amendments to the Law on Asylum, which opened the possibility for migrants to submit an "intention to seek asylum" and be granted with seventy-two hours to decide either to apply for asylum or to leave the territory of the country.¹⁹ This possibility was a game-changer in North Macedonia providing the authorities with a legal basis for registration of the migrants and the possibility for them to transit legally as long as they had expressed the intention to seek asylum.²⁰

The authorities of North Macedonia immediately implemented the new policy and started with registration of the new arrivals at the southern border with Greece in the town of Gevgelija. The role of registration of the new arrivals was allocated to the police authorities, who were lacking both the technical and human resources to carry out a full registration. The hundreds of migrants awaiting their registration and substantial numbers of daily arrivals created tensions between the migrants and the police, as well as the local population who had never before experienced such a situation. International and local NGOs offered support to the police. Very soon, cooperation was established between UNHCR and the border police, whereby UNHCR performed the registration of new arrivals through its implementing partner – the Macedonian Young Lawyers' Association (MYLA).²¹ This resulted in full efficient 24/7 registration of new arrivals that lasted until the last day of registration in March 2016. All newly arriving migrants were issued a "Certificate of Intention to seek asylum" in North Macedonia valid for seventy-two hours. The daily record of more than 15,000 migrants registered within 24 hours was reached in November 2015.²²

In spite of the possibility foreseen by the law for the newly arrived to submit their intention of seeking asylum at any police station in the country, the sole registration point throughout the entire duration of the crisis remained the one in Gevgelija at the southern border with Greece. The migrants were not able to

¹³ Refugee and migrant numbers and trends in FYROM, Serbia, and Croatia. Update from the UN Resident Coordinator's Office, Skopje.

¹⁴ Velina Lylianova. Briefing January 2016. European Parliamentary Research Service. PE 573.949, Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS_BRI\(2016\)573949_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS_BRI(2016)573949_EN.pdf)

¹⁵ UNHCR. Regional Refugee and Migrant Response Plan for Europe: Eastern Mediterranean and Western Balkans Route. January – December 2016, pg. 49

¹⁶ Information based on data collected by MYLA lawyers

¹⁷ The Guardian – Fear, fatigue and separation: a journey with migrants willing to risk everything. Available at: <https://www.theguardian.com/global-development/2015/apr/06/fear-fatigue-separation-migrants-western-balkans-west-africans-eu-back-door>

¹⁸ The Guardian - 14 migrants killed by train while walking on tracks in Macedonia – police, Available at: <https://www.theguardian.com/world/2015/apr/24/several-migrants-hit-by-train-killed-central-macedonia>

¹⁹ Amendments to the Law on Asylum and Temporary Protection, published in the Official Gazette of the Republic of Macedonia No. 49/03, 66/07, 142/08, 146/09 and 166/12, 101/15, Art. 16. According to Art. 16(3) of the Law, if the asylum seeker is already on the territory, he/she should apply for asylum directly with the Section for Asylum (MoI) in Skopje. In practice, the Section for Asylum does not receive persons applying for asylum. Instead, the Section for Asylum allows applications to be filed at police stations.

²⁰ MYLA field report Jan-March 2016 Available at: <http://myla.org.mk/wp-content/uploads/2016/09/Field-Report-2016-January-to-August-1.pdf>

²¹ Special report by the Ombudsman office – Специјален извештај за состојбата во привремениот транзитен центар за мигранти 10.12.2015, Available at: <http://ombudsman.mk/upload/NPM-dokumenti/2015/Posebni%20izvestaj-Vinojug%20i%20Tabanovce-10.12.2015.pdf>

²² Information based on MYLA statistics for registration of new arrivals

register at any other location in the territory of North Macedonia.²³ In order to register, the migrants had to present an official registration document issued by the Greek authorities. This practice was upheld from the very beginning until the end of the transitory flows. The new registration document in North Macedonia was based on the Greek document, containing the personal information and a picture of the person. Those who did not possess the Greek document were returned to Greece. However, this was not part of the new legal provisions but rather an *ad hoc* policy introduced by the authorities of North Macedonia for easier registration and proof of the newcomers' identity.

Those migrants successfully filing their intention to seek asylum had the right to enter the Vinojug Transit Centre in Gevgelija and await for their transit. On 18 November 2015, North Macedonia, along with Serbia, Croatia and Slovenia introduced a policy to allow only Syrian, Iraqi and Afghan (SIA) nationals to enter.²⁴ This policy was established outside of the legal framework, based solely on political grounds. In other words, the authorities themselves violated the Law on Asylum and Temporary Protection by refusing to issue the intention of seeking asylum to non-SIA nationals.

As of 21 February 2016, again without any legal foundation, another important change was introduced to the registration process: the refugees were obliged to state their intended destination country. If they did not state Austria or Germany as their final destination they were denied entry to North Macedonia.²⁵

These practices were strongly criticised by the civil society organisations, mainly because they undermined the rule of law and provided the police authorities with a possibility to act according to a political decision rather than the legal framework. While they set a worrying precedent for the future, these policies went through without any reaction on behalf of the competent EU officials.

MIGRATION MANAGEMENT

The Sector for Border Affairs and Migration is the highest-ranking unit responsible for migration management within the Ministry of Interior of North Macedonia. Prior to the escalation of the migration situation, the border guards were mainly responsible for preventing irregular migration both at the green (land) border and within the territory of the state.²⁶ In recent years, the convictions for the criminal offence of migrant smuggling increased (with more than 50 people sentenced²⁷) with the border officials successfully working together with the prosecutors concerning the detection, investigation and prosecution of these criminal offences. Based on the Working Arrangement for establishing operational cooperation between the European Border and Coast Guard Agency (FRONTEX) and the Ministry of Internal Affairs of Republic of North Macedonia, the border authorities initially developed their capacities with the support of FRONTEX.²⁸

On 19 August 2015, following the large influx of migrants, the government declared a crisis situation at the southern and northern borders, which launched the crisis management mechanism, providing for the possibility to deploy the army. The government's declaration of a crisis (later prolonged by the National Assembly) equipped the Crisis Management Centre (CMC) with the responsibility for the overall coordination of the crisis, making its decisions obligatory for all the stakeholders involved.²⁹ Among the CMC's first decisions was the order for the army to build a new transit center in Vinojug, some 800 meters off the borderline at the Greek village of Idomeni). This transit center was established with the (financial and material) support of international organisations and the EU.³⁰ Once completed and operational, the transit center allowed the authorities to register new arrivals, provide short-term shelter and services and organise transportation in one single spot.

The coordination between the CMC (as a governmental body) and the Ministry of Labour and Social Policy (MLSP) as the institution providing services to refugees and migrants represented a major challenge at the time, arising from the contested competences and decision-making between the two institutions. Whereas the CMC had the legal obligation to coordinate all activities during the crisis situation³¹, the MLSP was equally obliged by law to provide services to the refugees and migrants.³² The issue of their coordination has remained unresolved until today.

²³ MYLA field report 2016. Available at: <http://myla.org.mk/wp-content/uploads/2016/09/MYLA-Field-Report-2016-.pdf>

²⁴ Refugees Suffer Under Macedonia's New Border Rules, New discriminatory border policy is leaving thousands of refugees in limbo and at mercy of smugglers Available at: <http://www.balkaninsight.com/en/article/refugees-suffer-under-macedonia-s-new-border-rules-12-16-2015>

²⁵ Ibid

²⁶ Resolution of the migration policy in Republic of Macedonia 2009 – 2014

²⁷ PERPETRATORS OF CRIMINAL OFFENCES Convicted adult perpetrators by types of criminal offences p. 47. Available at: <http://www.stat.gov.mk/Publikacii/2.4.18.07.pdf>

²⁸ FRONTEX Working Arrangement with the Macedonia Concluded. Available at: <https://frontex.europa.eu/media-centre/news-release/working-arrangement-with-the-fyr-of-macedonia-concluded-10iaEG>

²⁹ Macedonia declares crisis situation in two border regions due to increased flow of refugees. Available at: <https://vlada.mk/node/10922?ln=en-gb>

³⁰ Jolevski in Gevgelija: the Army continues to support the police, greater support is needed from the international community Available at: <http://morm.gov.mk/?mainnews=jolevski-vo-posetana-gevgelija&lang=en>

³¹ Law on Crisis Management

³² Law on Asylum and Temporary Protection, published in the Official Gazette of the Republic of Macedonia No. 49/03, 66/07, 142/08, 146/09 and 166/12

In November 2015, the Army of North Macedonia launched the construction of some 50 kilometers of border fence along the Greek border in order to prevent migrants from irregularly entering the country.³³ As of December 2015, police officers from Austria, the Czech Republic, Poland, Hungary, Croatia, Slovenia, Serbia and Slovakia have been present, assisting the North Macedonian border police in coping with the migration situation and combatting irregular migration and migrant smuggling.³⁴

From June 2015 until March 2016, when the legal transit along the Balkan route was possible, the number of detected cases of migrant smuggling dropped to almost zero in North Macedonia. The possibility to transit from one country to another made the services of smugglers irrelevant.³⁵

The EU and its decisions had a great impact on the migration policy of North Macedonia. Following the adoption of a 17-point Action Plan by the leaders of the EU and WB states in November 2015³⁶, North Macedonia closed its border for migrants who did not originate from Syria, Iraq and Afghanistan. The following explanation was offered: “[North] Macedonia cannot open its doors for those who cannot be accommodated in the EU, mostly due to the fact that they do not arrive in [North] Macedonia with the purpose of staying here, instead they want to travel to EU member states”³⁷. This decision resulted in hundreds of migrants originating from African, Asian or other Middle Eastern countries being stranded in the village of Idomeni on the Greek side of the border. The decision had no legal basis in the legislation of North Macedonia, which foresaw no limitations or clarification in terms of the nationalities of migrants who can apply for the intention of seeking asylum.

In a joint letter to the EU Heads of State and Government, numerous civil society organisations from the Balkan region raised their concern that the European Council’s decisions of 7 March 2016 had perpetuated the confinement of people and discriminatory practices. They acknowledged that border management was essential, but insisted that it should not be subordinated to the inadvisable and unattainable goal of reducing migration to zero.

In the context of the wider political turmoil in North Macedonia, not associated with the migration situation, this particular issue did neither receive much attention from politicians nor the media. Overall, the government’s response to the migration situation could be characterised as indifferent. As noted, the migrant situation garnered little attention, with the exception of North Macedonia’s decision to close its borders in August 2015 and again in March 2016, when clashes broke out between those on the move and border guards. Since North Macedonia represented the entry point to the Western Balkan route, those politicians pledging to slow down the migrant flow or to close the border entirely were able to gather public support. Moreover, the operational capacity of the government to control the border and act effectively upon brokered agreements with international bodies added to the government’s legitimacy. While the migrant situation did not assuage domestic political debate in North Macedonia, it did provide the government at the time the possibility to gain additional supporters internally and abroad, despite criticism of its actions.³⁸

TRANSIT

An informal agreement between the North Macedonian and Greek police authorities set the practice of migrants arriving from Greece in groups of 50 people every 30 minutes. They had to walk for 800 meters from the centre of Idomeni in order to reach the transit center Vinojug. The North Macedonian police then collected the Greek documents from the group and prepared the mentioned intention to seek asylum. After receiving this document, the group could enter the transit center and benefit from its services, including food, medical and psychological support, legal and translation services etc. As soon as the number of 1.000 people was reached (usually every five hours), a train arrived to transfer the migrants to the Northern border for a fee of 25 Euro.³⁹ Once they had boarded the train, the doors were locked from outside. The trip to the village of Tabanovce (at the Serbian border) took four to five hours. Upon arrival, the doors were unlocked and people allowed exiting the train.⁴⁰ Whereas another transit center in Tabanovce also offered food, shelter, toilets, protection services etc., most migrants stayed for less than 15 minutes before rushing off to cross the Serbian border, which was only 400 meters away.⁴¹

³³ Macedonian Army Starts Building Fence on Greek Border, Available at: <https://www.voanews.com/a/macedonian-army-starts-building-fence-on-greek-border/3078551.html>

³⁴ Republic of Macedonia Emilie Pesselier – Migreurop / MYLA - June 2017 p. 12 Available at: http://www.migreurop.org/IMG/pdf/country_sheet_-_r_of_macedonia_-_ok.pdf

³⁵ Information obtained by monitoring the daily news update of the Ministry of Interior for the reporting period, Available at: <https://mvr.gov.mk/default>

³⁶ Meeting on the Western Balkans Migration Route: Leaders Agree on 17-point plan of action, Available at: https://ec.europa.eu/home-affairs/what-is-new/news/news/2015/20151026_1_en

³⁷ Statement by the Foreign Minister Mr. Nikola Popovski on 23 November 2015, Available at: <http://macedoniaonline.eu/content/view/28446/9/>

³⁸ Florian Bieber. Gruevski Does Not Deserve Any More Chances. Balkan Insight. June 23, 2015. Available at: <http://www.balkaninsight.com/en/blog/gruevski-does-not-deserve-any-more-chances> Probably better to avoid more political references.

³⁹ Statement based on Interview conducted by the author with MYLA lawyers who were working at the Transit Center Vinojug in December 2015.

⁴⁰ MYLA Field Reports for 2015 and 2016, Available at: <http://myla.org.mk/wp-content/uploads/2016/09/MYLA-Field-Report-2015-1.pdf> and <http://myla.org.mk/wp-content/uploads/2016/09/MYLA-Field-Report-2016-.pdf>

⁴¹ Statement based on Interview conducted by the author with MYLA lawyers who were working at the Transit Center Tabanovce in December 2015.

SERBIA

ENTRY AND REGISTRATION OF NEW ARRIVALS

Figures on the exact number of people who transited through Serbia vary: While the European Parliament estimated some 596,000 entries in 2015⁴², the UNHCR counted 815,000.⁴³ According to the IOM, 639,152 migrants transited Serbia between early 2015 and February 2016.⁴⁴ In October and November 2015, an average of 6,500 people entered Serbia on a daily basis.⁴⁵ Between 1 January and 3 March 2016, 89,180 people transited the country.⁴⁶

In any case, Serbia experienced a significant influx of migrants from Tabanovce to the town of Preševo in southern Serbia where the migrants were accommodated in a reception center. The center was part of the regional approach to establish such registration points close to the border crossings frequented by the migrants. As they were transiting Serbia on their way to Hungary and Croatia before travelling on to Central and Western Europe, various NGOs issued warnings of a possible bottleneck when Hungary rushed to close its border to keep people out.⁴⁷

In September 2015, the Serbian Government adopted the *Decision on Issuing a Certificate of Having Entered the Territory of Serbia for Migrants Coming from Countries Where their Lives are in Danger*⁴⁸. Similarly to North Macedonia, people who presented themselves to authorised police officers were issued a certificate of 'intention to seek asylum', obliging them to report to the Serbian Asylum Office or an asylum centre within 72 hours without yet applying for asylum. Once again, few people actually filed an asylum application. Among the latter, most left before a decision was issued.⁴⁹

In general, the migrants arrived exhausted and in need of food, water, medical services and shelter. They frequently had to remain outside without receiving any food or enjoying decent sanitary conditions.⁵⁰ The migrant flow from North Macedonia and Bulgaria to Serbia reached its peak by mid-October 2015. Between June and mid-October 2015, over 223,000 migrants were registered, with the daily figures often reaching 10,000 people. After the initial reception and registration, they continued their journey along the migratory route, heading to the desired EU Member States.⁵¹

In July 2015, Hungary launched the construction of a fence along its border with Serbia and put illegal border crossings under its criminal code. During the summer, several incidents between migrants and the Hungarian police occurred at the Hungarian border. In one instance, the police used teargas and water cannons against migrants despite the fact that they were on the Serbian side of the border. This incident further escalated the tensions between the two countries. The completion of the fence on 15 September resulted in the redirection of the migration route towards Croatia. Due to the increased turmoil along the Western Balkan borders, in February 2016 Serbia called for all security forces, including the army, to be on high alert. If required, the Council for National Security, along with the President of the Republic, would decide on whether to deploy the army. The Minister of Justice stated that all security forces were responsible for the protection of state borders.⁵²

Meanwhile, Serbia's government attempted to improve its capacities in terms of reception facilities. Three new assistance centers were established near the North Macedonian border (Tabanovce TC Refugee Aid Point, Preševo One Stop Centre and Miratovac Refugee Aid Point) and a fourth one in Kanjiža (Staro Vašarište Refugee Aid Point). New mobile reception centers opened in Zajecar, Negotin and Pirot at the border with Bulgaria.⁵³ Humanitarian workers had limited access to registration areas with only few NGOs permitted to operate inside of them. The situation was further complicated by the fact that different government authorities had legal responsibility over the various reception centers.⁵⁴

⁴² Velina Lylianova. Briefing January 2016. European Parliamentary Research Service. PE 573.949, Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS_BRI\(2016\)573949_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS_BRI(2016)573949_EN.pdf)

⁴³ UNHCR. Regional Refugee and Migrant Response Plan for Europe: Eastern Mediterranean and Western Balkans Route. January – December 2016.

⁴⁴ IOM Weekly Flows Compilation Report No. 4. Available at: <http://doe.iom.int/docs/WEEKLY%20Flows%20Compilation%20No4%204%20Feb%202016.pdf>

⁴⁵ UNHCR. Regional Refugee and Migrant Response Plan for Europe: Eastern Mediterranean and Western Balkans Route. January – December 2016.

⁴⁶ IOM Weekly Flows Compilation Report No. 8. Available at: <http://doe.iom.int/docs/WEEKLY%20Flows%20Compilation%20No8%2003%20Mar%202016.pdf>

⁴⁷ Thousands of EU-bound migrants enter Serbia, Available at: <https://www.dw.com/en/thousands-of-eu-bound-migrants-enter-serbia/a-18669721>

⁴⁸ Official Gazette of the Republic of Serbia, no. 81/2015

⁴⁹ Selo Sabic S., Boric S., At the Gate of Europe A Report on Refugees on the Western Balkan Route Available at: http://www.irmo.hr/wp-content/uploads/2016/05/At-the-Gate-of-Europe_WEB.pdf

⁵⁰ Available at: <http://www.migrationpolicycentre.eu/profile-serbia/>

⁵¹ Emergency Plan of Action Final Report Serbia: Population Movement

⁵² Kurir. Pripravnost na granicama: Srbija šalje vojsku na migrante. February 25, 2016. Available at: <http://www.kurir.rs/vesti/drustvo/pripravnost-na-granicama-srbija-salje-vojsku-na-migrante-clanak-2149007>

⁵³ Emergency Plan of Action Final Report Serbia: Population Movement

⁵⁴ The Balkan Migrant Crisis, Available at: <https://data2.unhcr.org/ar/documents/download/46801>

Registrations were handled at the Preševo centre near the border with North Macedonia, where a number of problems were reported. The European Council on Refugees and Exiles (ECRE) reported that between 30 September and 1 October, 2.600 migrants were registered in Preševo, in spite of 5.000 arrivals over these two days. According to ECRE, this difference appeared despite the improved registration capacities.⁵⁵ It should be noted that these improved capacities over time resulted in the ability to register up to 8.000 migrants in a single day.⁵⁵ Serbia was also adjusting its policies according to the political decisions at regional level, allowing only nationals from Syria, Iraq and Afghanistan to enter its territory as of November 2015. As of February 2016, only nationals from Syria and Iraq could enter into Serbia. Consequently, several hundred Afghan nationals remained stuck in North Macedonia once the Serbian authorities started denying them entry. On 18 February 2016, Serbia, Slovenia, Austria, Croatia and North Macedonia signed a Joint Declaration of the Chiefs of Police announcing new tightened restrictions on refugees and migrants passing through their territories.⁵⁶

MIGRATION MANAGEMENT

Several Serbian state authorities have competences over migration and asylum, with the Ministry of Interior's Asylum Office, the Asylum Commission, the Administrative Court and the Commissariat for Refugees and Migration being the most important ones. Several civil society and international organisations also belong to the key stakeholders in this domain.

At the central level, coordination across government institutions is ensured through several inter-ministerial bodies. The Coordination Body for Migration Monitoring and Management is responsible for providing guidance on the operations of ministries and other organisations, defining the goals and priorities of migration policy, as well as monitoring and managing migration at the national level. At the local level, each municipality has a Migration Council and a Local Commissioner for Refugees and Migration. These assist migrants or refer them to the competent authorities or NGOs.

The number of reception centers in Serbia increased from two in 2012 to six in 2016. The 'one-stop center' opened in Preševo in 2015 is the newest amongst them. Additional centers offering humanitarian assistance and limited accommodation were set up in Miratovac, Subotica, Kanjiža, Sombor, Šid, Adaševci and Principovac. They are situated in border areas near North Macedonia, Hungary and Croatia, where most people are arriving or exiting the country, and have a total capacity of 3.680 places. However, these capacities also proved insufficient as the migrants often ended up residing informally in 'jungles' surrounding the centers or along the borders. While Serbia pledged to establish 6.000 reception places during the Western Balkan Summit of October 2015, it is still working on fulfilling this commitment.

Following the closure of the Western Balkan route, the new centers serve to accommodate the increasing numbers of people forced to stay in Serbia. The conditions in the centers vary in terms of the sanitary conditions, heating, food and access to different services. The center in Šid (near the Croatian border) had to close following protests on behalf of the local residents.

The decision to only allow three nationalities into the countries, the subsequent closing of the 'Balkan route' in March 2016 and the adoption of the EU-Turkey Statement, ended the organized transits through Serbia and significantly reduced the overall migratory movements across the Balkan route. Ever since, there has been an attempt to reduce the number of people staying outside the state-run centers. While the latter are officially classified as asylum, reception or transit centers, in practice they all accommodate migrants irrespective of their administrative status (whether they lodged an asylum application or not).

The Serbian government has offered the most positive rhetoric towards people on the move. The discourse centred on concepts like empathy, human solidarity, the shared experience from the wars in the former Yugoslavia, and the responsibility that functioning states and mature societies must assume. However, there was also a clear message that Serbia would not accept any burden alone; there were continued calls for a joint European solution. In contrast to North Macedonia, the Serbian media generally underlined the humanitarian character of the refugee crisis, frequently focusing on personal stories. Some media outlets published stories about the inhumane conditions at the borders, particularly when border crossings were closed. They also described various instances of smugglers and criminals taking advantage of people on the move. Broadly speaking, the Serbian media greatly empathised with the people fleeing their homeland in

⁵⁵ UNHCR: Regional Refugee and Migrant Response Plan for Europe: Eastern Mediterranean and Western Balkans Route. January – December 2016

⁵⁶ Joint statement of Heads of Police Services: Available at: https://www.mup.hr/UserDocsImages/topvijesti/2016/veljaca/migranti_sastanak/joint_statement.pdf

search of security and improved living conditions. Balancing out the empathy, there was also wide coverage of the unfortunate domestic situation in Serbia. A debate ensued about Serbia struggling with far too many problems on its own to be able to cater to the hundreds of thousands of unfortunate people arriving.⁵⁷

TRANSIT

People typically crossed into Serbia between Tabanovce (North Macedonia) and Miratovac (Serbia). There are two other entry points at the border with Bulgaria: Dimitrovgrad and Zaječar (from which they travel to Belgrade). From Miratovac, migrants were directed to Preševo, either by foot, minivan, or bus, which takes between 15 and 30 minutes. From Preševo, they could go either to Belgrade or to the town of Šid at the Croatian border. Migrants travelling to Belgrade arrived either by train (11 hours/10 EUR) or by bus (5 hours/25 EUR). From Preševo to Šid, they could take a 12-hour train ride for 12 EUR, or a 6-hour bus ride for 20–30 EUR. However, only those registered could take the bus to Šid. For those awaiting registration, taxis operating illegally offered their services at a rate of 1.000 EUR.

Once in Šid, a free train transport was provided to take the people to the reception center in Slavonski Brod, Croatia. In Šid, both Serbian and Croatian police units conducted separate screening processes; those who passing both successfully were allowed to board the train to Slavonski Brod. Before this transport was organised on 3 November 2015, migrants crossed the border by foot at the Berkasovo/Bapska border crossing.

An increasing number of migrants crossed into Serbia via the Bulgarian border and registered at the reception center in Dimitrovgrad (Serbia), where they took buses to Belgrade. Service provision along the various border-crossing points with Bulgaria was limited.

In November, Serbia and Croatia agreed on a new regime involving the transfer of migrants from Serbia to Croatia by train. In February 2016, a joint declaration was signed with North Macedonia, Croatia, Slovenia and Austria on improving cooperation in migration management, which involved, inter alia, timely information exchange and the use of a unified refugee registration form, to be issued in North Macedonia and stamped during transit by all signatory countries. Ever since, a larger number of migrants were denied entry into Croatia, remaining in Serbia with an unregulated status. Overall, but especially in the short term, the Serbian government attempted to ease the transit of people by issuing travel permits, providing public transport and delivering organised humanitarian aid around entry and exit points. However, capacities have remained strained and accommodation centers frequently over-crowded. Border control was stepped up and the number of personnel administrating the asylum procedure increased as well.

⁴² Selo Sabic S., Boric S., At the Gate of Europe A Report on Refugees on the Western Balkan Route Available at: http://www.irmo.hr/wp-content/uploads/2016/05/At-the-Gate-of-Europe_WEB.pdf

ENTRY AND REGISTRATION OF NEW ARRIVALS

Between 16 September 2015 and 5 March 2016, 658.068 migrants⁵⁸ entered the territory of Croatia. On average, there were approximately 5.500 daily arrivals, with a peak of 11.000 on 17 September.⁵⁹ Throughout January 2016, the average number of migrants entering Croatia varied between 500 and 2.000, reaching 3.000 on certain days.

Croatia first experienced its migration 'crises' on 16 September 2015 in the territory of the Vukovar-Srijem Police Directorate that saw the arrival of 1.600 people.⁶⁰ At the time, the migration route was diverted from Hungary to the town of Tovarnik across the land border. On the following day, more than 11.000 migrants arrived from Serbia to Croatia, setting a record number in this respect. This was the result of the organised transfer from the reception centers in Serbia to the Croatian border. The quantity of refugees and migrants coming to Croatia remained high until the beginning of 2016, when it declined to 500 to 2.000 people per day.⁶¹

On 20 September 2015, Croatia closed all border-crossing points with Serbia, halting all cargo traffic. Serbia responded by closing its border to Croatian goods. Croatia then closed its border to cars with Serbian license plates and to Serbian citizens. The tit-for-tat lasted several days, before the bans were lifted and relations normalized again. At the beginning of the crisis, Croatia directed migrants to the Hungarian border, causing one incident when a train full of migrants and armed Croatian police officers crossed the Hungarian border unannounced (according to Hungary). On 16 October 2015, Hungary completed the construction of a fence along its border with Croatia, thus blocking the inflow of migrants following their detour through Croatia. Ever since, migrants were re-directed to Slovenia.⁶² This development once again illustrates the complex political relations within the fragile Balkan region, further challenged by the lack of a clear EU policy on managing this exceptional migration situation.

The registration of new arrivals in Croatia differed from the ones in North Macedonia and Serbia - both in terms of the status granted and documentation issued. People merely received a notice of obliging them to leave the country voluntarily. This difference probably resulted from the EU membership of the country. Under the Dublin III Regulation, the issuing of an 'intention to seek asylum' would have allowed other EU countries to return asylum seekers to Croatia.

The registration of migrants featured the taking of photographs and fingerprints (except for children under 14), as well as establishing of identity. Based on the collected data, a notice on the obligation to voluntarily leave Croatia was issued. The opening of the reception center in Slavonski Brod near the border with Bosnia and Herzegovina coincided with an acceleration of the registration procedure, which was made digital and automatized using tablets. Croatia was ready to enter the relevant data into the EURODAC system, under the condition that Greece, being the first EU country of entrance, did the same.

In the first weeks of the crisis, the largest inflows were registered in the area of Tovarnik, Ilok, Strošinci and Bapska, with some people placed in the temporary shelter in Opatovac. From there, they were transferred to Hungary and Slovenia and later to Western European countries (mostly to Germany). According to UNHCR Croatia, during the six months following the 24 March 2016 only 178 asylum applications were registered in the country.

When people began to arrive, the Croatian government set up a first refugee camp for 5.000 people near the border with Serbia. A second camp for 15.000 people was set up near the border with Bosnia and Herzegovina. Refugees and migrants were accommodated in military tents and their registration processed there but the respective details were not shared with other EU Member States in order to avoid subsequent returns to Croatia as stipulated by the Dublin III Regulation.⁶³

In March 2016, the new government proposed legislative amendments that would allow the Armed Forces to support the police in protecting the border. The decision to deploy the Armed Forces would thereby be

⁵⁸ UNHCR Croatia. Interview. March 2016

⁵⁹ Ministry of Interior of the Republic of Croatia data. Available at: <http://www.mup.hr/main.aspx?id=230152>

⁶⁰ Ranko Ostojic, Friedrich Ebert Stiftung, A European Perspective of the Migration Crisis: Croatian Experiences, Available at: <https://library.fes.de/pdf-files/bueros/kroatien/13060.pdf>

⁶¹ The Croatian Experience in the Migration Crisis 2015 and 2016 Ranko Ostojic Member of the Croatian Parliament President of the Parliamentary Committee on Internal Policy and National Security, Available at: <http://library.fes.de/pdf-files/bueros/kroatien/13060.pdf>

⁶² At the Gate of Europe: A Report on Refugees on the Western Balkan Route Available at: http://www.irmo.hr/wp-content/uploads/2016/05/At-the-Gate-of-Europe_WEB.pdf

⁶³ DOSSIER: CROSSING BORDERS – REFUGEE AND ASYLUM POLICY IN EUROPE, Available at: <https://www.boell.de/en/2016/05/24/european-refugee-crisis-croatian-view>

made by the government upon the recommendation of the Minister of Defense and following prior consent by the President of the Republic.⁶⁴

On 18 November 2015, the government of Slovenia requested the return of 'non-war refugees' back to Croatia.⁶⁵ The Croatian government reacted by notifying its counterparts in Belgrade and Skopje that it will no longer receive migrants from countries other than Syria, Iraq and Afghanistan. Thereafter, the number of daily arrivals fell below 3.000.⁶⁶

MIGRATION MANAGEMENT

Although it is not a member of the Schengen area⁶⁷, Croatia has been applying the rule to accept only those people into the country if they apply for asylum or were selected individually on humanitarian grounds. This approach has stopped the transit through Croatia. Similar to the Visegrád countries (Czech Republic, Hungary, Poland and Slovakia), Croatia introduced amendments to its Foreigners Act, criminalising any effort by its citizens to assist a foreigner illicitly entering, transiting or residing in the country. This legislative change has been criticised as 'criminalising solidarity'.⁶⁸

Once Hungary blocked the entrance of migrants, Croatia started directing migrants to Slovenia. When hundreds of people arrived to Slovenia - many of them Syrians - it pledged to register them before allowing their onward journey to Austria and Germany. In order to do so, Slovenia suspended rail traffic with Croatia, saying that it needed "complete control" over the flow.⁶⁹

Due to the large influx of people, Croatia closed seven of its eight border crossing points with Serbia two days after people began arriving and opened a transit centre in Opatovac (Croatia) at the border with Serbia for their registration and the provision of food and medical support. People crossing the border at Berkasovo (Serbia) - Bapska (Croatia) were equally transferred to Opatovac, and - upon registration - by bus and train to the Slovenian border. Once the Opatovac transit center closed in early November 2015, the arrival of migrants to the Berkasovo-Bapska border crossing stopped. Instead, the Winter Reception and Transit Centre (WRTC) in Slavonski Brod (Croatia) became operational.⁷⁰

The Slavonski Brod center became a place of detention for many of its residents. After its closure, they either applied for asylum (and were consequently transferred to reception centers in Zagreb and Kutina) or remained with irregular status and were transferred to the detention centre in Ježevo. Those having a confirmation that their return to another EU country was postponed were accommodated in alternative detention centers. Returns of migrants to their previous country of entry into EU occurred between mid-November 2015 and March 2016. The process began with the Slovenian police separating Syrian, Afghan and Iraqi nationals from all other nationalities in order to return them. This approach was soon adopted by all countries along the Balkan route.⁷¹

In view of the parliamentary elections on 11 September 2016, the Croatian government needed to show its capability to control the crisis. As migration quickly began to dominate the political agenda, the government developed a narrative whereby Croatia would do its share of the work and contribute to the orderly and humane transit of migrants across its territory, but would not turn into the final destination. Croatia thus became the first country to sponsor the transportation of people on the move, demonstrating its responsibility and capacity to assist refugees, providing them with food, temporary shelter and medical assistance.⁷² At the same time, the free transportation would prevent the people from leaving the reception centers. In this way, the contact to the local population was reduced to a minimum. The majority of Croatians thus only knew the refugees from the television and other media. Meanwhile, the opposition criticised the alleged failure to find an agreement with Slovenia and Hungary, which would damage the bilateral relations and prevent the finding of a joint solution. Whereas the government eventually lost the elections, the overall impression was that the handling of the migration situation was not decisive.⁷³

⁶⁴ Draft proposal of amendments to the Law on Defence. Available at: <https://vlada.gov.hr/UserDocsImages/Sjednice/2016/6%20sjednica%20Vlade//6%20-%201b.pdf>

⁶⁵ Available at: <http://library.fes.de/pdf-files/bueros/kroatien/13059.pdf>

⁶⁶ UNHCR Regional Refugee and Migrant Response Plan for Europe: Eastern Mediterranean and Western Balkans Route. January–December 2016

⁶⁷ The Schengen Area is an area comprising 26 European states that have officially abolished passport and all other types of border control at their mutual borders. The area mostly functions as a single jurisdiction for international travel purposes, with a common visa policy.

⁶⁸ DOSSIER: CROSSING BORDERS – REFUGEE AND ASYLUM POLICY IN EUROPE. Available at: <https://www.boell.de/en/2016/05/24/european-refugee-crisis-croatian-view>

⁶⁹ Available at: <https://www.reuters.com/article/us-europe-migrants-slovenia-idUSKCN0SB6620151018>

⁷⁰ The Balkan Migrant Crisis. Available at: <https://data2.unhcr.org/ar/documents/download/46801>

⁷¹ <https://eu.boell.org/en/2016/05/26/european-refugee-crisis-croatian-view>

⁷² At the Gate of Europe A Report on Refugees on the Western Balkan Route. Available at: http://www.irmo.hr/wp-content/uploads/2016/05/At-the-Gate-of-Europe_WEB.pdf

⁷³ Ibid

TRANSIT

The agreement between Serbia and Croatia in early November 2015 to transfer people free of charge by train from Šid (Serbia) directly to the Slavonski Brod Camp (Croatia) for registration vastly improved the transportation situation. Upon registration, people boarded trains free of charge directly to Dobova in Slovenia. Over 552.071 migrants transited through Croatia between September and 29 December 2015. More than 3.000 people per day arrived on average in December 2015 (UNHCR 31/12/2015). Croatia provided for 5.000 winterised temporary accommodation places.⁷⁴ The transportation of people from Slavonski Brod to Slovenia (Dobova border crossing) was organised every few hours.

⁷⁴ The Balkan Migrant Crisis, Available at: <https://data2.unhcr.org/ar/documents/download/46801>

POLICY IMPLICATIONS, CONCLUSIONS AND RECOMMENDATIONS

In mid-2015, the number of people passing through North Macedonia and Serbia increased dramatically. Pressure on the two governments to address the situation grew, particularly amid reports of people on the move suffering abuse at the hands of authorities and being struck by trains along railway lines. In an attempt to start managing and reducing the flows, both governments enacted legislation in 2015 allowing people to file an “intention to seek asylum” upon entry and receive a 72-hour temporary permit to be in the country. Under these provisions, hundreds of thousands of asylum seekers and migrants arrived to the European Union via the Western Balkans, but only until 20 March 2016 when the arrangements agreed upon in the EU-Turkey Statement came into effect.

The EU-Turkey Statement, seeking to curb migrant flows across the Aegean Sea by returning those to Turkey who had newly crossed into Greece, has been credited to have stemmed the flows. Nonetheless, the actions of countries along the Western Balkans route also played a vital role. North Macedonia responded to the Statement by effectively closing its border to Greece, again setting off a domino effect of restrictions. Any remaining migrants were trapped in a bottleneck, where they were ushered into reception centers.

Despite the “closed” borders, the influx of refugees and migrants has continued until present. Like before, the vast majority of people on the move usually reside only for a short period in the countries along the route. As a result, both media and the state authorities often use the term “transit” when referring to these countries. The provision of protection to asylum seekers and migrants also follows this discourse. However, the term “transit” has no legal relevance under international law and can be misleading. Some people chose to stay and apply for asylum in these countries as well. Moreover, it serves to reassert the continued relevance of the 1951 Refugee Convention and 1967 Protocol even though its application is by no means limited to “destination” countries.⁷⁵

The outcome of the 2015/2016 migration situation in the Balkan region entails a number of policy implications, including legislative amendments, investments in building of reception facilities, trainings, as well as bilateral and regional agreements. Nevertheless, the gaps, difficulties and inconsistencies in the asylum systems that are described here, alongside with the lack of economic opportunities and other ‘pull factors’ across the Western Balkan countries leads to the conclusion that further efforts are needed in order to ensure respect of the rights and the effective protection of those on the move. Border closures, combined with a complete lack of legal routes for travel, are not the answer to managing the arrival of refugees and migrants to Europe. People, not borders, are in urgent need of protection.

The Western Balkan countries are neither willing nor able to process the quantity of asylum applications that could potentially be lodged by all those transiting. The persisting gaps include the lacking capacity to identify and register asylum seekers and to process their asylum applications, the failure to conduct refugee status determination procedures in line with legal standards, the absence of return procedures and the inability to develop the necessary systems (e.g. detention and return) simultaneously. Should these countries face a migration influx similar to the one experience in 2015/16 again, they will still not be prepared to address it adequately.

An appropriate response to the movement of refugee and migrant in the Western Balkans needs to be organised in a two-fold manner. First, immediate short-term measures are needed to ensure appropriate legal protection and humanitarian aid, while presenting human rights violations. The required legislative instruments for providing a satisfying response to mass influx situations already exist at the domestic and regional (EU) level (including “temporary protection”).

These measures could be complemented by efficient and fair screening procedures in order not only to identify extremely vulnerable individuals upon arrival, but also facilitate the granting of international protection to people who are likely to qualify for it. Strong cooperation and information-sharing between the countries along the route, as was already proposed in practice, coupled with an effective resettlement programme, would go a long way towards truly curbing irregular movement, eliminating migrant smuggling and trafficking in human beings, as well as “controlling” the migratory flow and enabling access to durable solutions in the near future.

⁷⁵ Pavle Kilibarda, Obligations of transit countries under refugee law: A Western Balkans case study, Available at: file:///C:/Users/MYLA%20PC2/Downloads/irrc_99_13.pdf

Furthermore, long-term reforms in the asylum systems are required, focusing specifically on the integration of refugees. As mentioned, some legislative changes are needed in view of an eventual EU accession. However, the independent value of building strong protection mechanisms at domestic level needs to be underlined.

Ensuring efficient border management and the respect of minimum standards is by no means an ideal response to any refugee “crisis”. The latter should rather be perceived as inherent to the nature of humanitarian action to advocate the greatest possible extent of protection and welfare available. Ethical arguments also do apply in this context. Being forced to invoke legal provisions in order to ensure a minimum of respect for human dignity shall always remain the exception.

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