

## Protecting people across borders

### NGO statement ahead of the EU-Western Balkans Summit of 17 May 2018

On Thursday 17 May, EU Heads of State are meeting their counterparts from the Western Balkans (Albania, Bosnia and Herzegovina, Serbia, Montenegro, the former Yugoslav Republic of Macedonia and Kosovo) to discuss cooperation in several areas, including migration and security. Following increased arrivals of refugees and migrants to both the Western Balkans and the EU, the issue of border control has gained prominence, resulting in more investments and cooperation agreements between the EU and Western Balkan countries. At the same time refugees and migrants, including children and other vulnerable groups, are facing serious risks in the Western Balkans and in the EU including violence, repeated pushbacks and collective expulsions. In November 2017 a 6-year old girl lost her life after being pushed back from Croatia into Serbia.<sup>1</sup> The EU's Fundamental Rights Agency mentioned access to the territory as a persistent challenge in its February report on migration, reporting ill treatment by border officials, including physical violence in Bulgaria, Croatia and Hungary. Repeated pushbacks were also reported at the Hungarian border.<sup>2</sup> Protecting borders should not come at the expense of protecting people. Ahead of the Western Balkan Summit we call on Heads of States in the EU and in the Western Balkans to address the following concerns and recommendations:

#### **1. Respect for the right to claim asylum**

Across the Western Balkans the right to asylum is increasingly difficult to access, or denied, with a lack of due process in assessing claims.<sup>3</sup> Asylum-seekers are often turned away at the border and existing laws are not properly implemented, effectively denying many the right to access asylum procedures. In 2017, Serbia intercepted 2638 people at the border, Montenegro 614, the former Yugoslav Republic of Macedonia 4129 and Albania 1047.<sup>4</sup> At the same time, recognition rates for asylum claims across the Western Balkans continue to be very low.<sup>5</sup> For the whole of 2017, 162 people claimed asylum in FYROM, five people were granted subsidiary protection and nobody received refugee status.<sup>6</sup> In Kosovo, 147 people applied for asylum, two people were granted subsidiary protection and nobody received refugee status.<sup>7</sup> In the same year in Serbia, of the 236 people who applied for asylum, only three were granted refugee status and eleven were provided with subsidiary protection.<sup>8</sup> In Bosnia and Herzegovina, 381 people applied for asylum in 2017, eight received subsidiary protection and nobody was granted refugee status.<sup>9</sup>

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<sup>1</sup> <https://www.theguardian.com/world/2017/dec/08/they-treated-her-like-a-dog-tragedy-of-the-six-year-old-killed-at-croatian-border>

<sup>2</sup> Migration to the EU: five persistent challenges, EU Fundamental Rights Agency, February 2018

<sup>3</sup> For more info of denial access to asylum check: [https://www.helsinki.hu/wp-content/uploads/pushed\\_back.pdf](https://www.helsinki.hu/wp-content/uploads/pushed_back.pdf)

<sup>4</sup> See European Commission reports on the Western Balkans from 2018. Available here:

[https://ec.europa.eu/neighbourhood-enlargement/countries/package\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/package_en)

<sup>5</sup> See AIDA Serbia Country Report. Available here: <http://www.asylumineurope.org/reports/country/serbia/safe-third-country>

<sup>6</sup> The Macedonian Young Lawyers Association, data provided on April 2018 .

<sup>7</sup> Statistics provided by Civil Rights Program Kosovo

<sup>8</sup> See AIDA Serbia Country Report. Available here: <http://www.asylumineurope.org/reports/country/serbia>

<sup>9</sup> Association "Vasa prava BiH" – Legal Aid Network, Bosnia and Herzegovina, data provided on April 2018

Under international and European law, asylum seekers must always have access to individual assessment of their claims, and never be subjected to mass expulsions. **The EU and Western Balkan countries should employ all possible measures, including increased and targeted investment in asylum systems, free legal aid, capacity building and the establishment of well-functioning monitoring and accountability mechanisms to live up to their fundamental rights obligations as outlined in chapters 23 and 24 of the EU acquis.**

## **2. Humane border management and support for victims of trafficking**

Unlawful expulsions and deportations as well as push backs across borders are widespread and must end.<sup>10</sup> People crossing borders, including very young children, regularly face violence and suffer from humiliating and degrading treatment, often perpetrated by border guards. As the journeys become longer and more costly, many asylum seekers, especially women and children, risk running out of money and are forced into survival sex or become victims of trafficking and other forms of exploitation.<sup>11</sup> Increasingly, organized smugglers, who earn high profits and often cooperate with or become human traffickers, are expanding their operations in the Western Balkans.

**We call on the EU and Western Balkan states to introduce and expand effective monitoring and accountability mechanisms for border officers who violate their legal obligations, including functioning complaint mechanisms, reporting, investigation and penalizing. Frontex should maintain monitoring and capacity building operations across the Balkans with specific focus on respect for protection of rights at the borders.**

**Western Balkan states, with the support of the EU, should create new, urgently needed mechanisms for cross-border cooperation for the protection of all migrants.** This includes better identification of victims of human trafficking and the training of relevant officials to ensure that victims are referred to national services responsible for their protection.

## **3. Safe and regular pathways**

Many refugees and migrants remain stuck in limbo in the Western Balkans due to lack of timely (or any) access to legal procedures and other regular pathways. Family reunification procedures remain complex and slow. Refugees and migrants in limbo need to be regularized within a reasonable time-frame.

**We call on EU member states to maintain and open safe, legal and effective pathways, including through expedited family reunification, resettlement for refugees, humanitarian visas and other forms of support, prioritizing children and other vulnerable groups.**

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<sup>10</sup> Bulgarian Helsinki Committee, Pushed Back at the Dorr: Denial of access to asylum in Eastern EU Member States (2017): [https://www.helsinki.hu/wp-content/uploads/pushed\\_back.pdf](https://www.helsinki.hu/wp-content/uploads/pushed_back.pdf). See also BCHR, MYLA, Oxfam, A Dangerous 'Game': The pushback of migrants, including refugees, at Europe's borders (April 2017): <https://oxf.am/2FKi1fP>. In addition, In its latest progress report on Albania, the European Commission has reported cases of refoulement, arbitrary detention and illegal returns. In Albania, migrants were returned to Greece without being pre-screened. In its progress report on Serbia, the European Commission reported on *migrants sleeping rough in the border areas with Hungary and Croatia and in the Belgrade city centre*.

<sup>11</sup> 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 (November 2016): <https://oxf.am/2FOITwk>

#### 4. Funding for humane and fair asylum systems and integration

The suggested priority on migration for accession funding in the next Multi-Annual Financial Framework (MFF) is disproportionately focused on border management and does not address the wider issue of supporting fair and functioning asylum systems and inclusion. EU financial investment in migration, as well as its support to Western Balkan countries for this purpose, should not be limited to addressing only the basic needs of migrants and refugees (camp management, shelter, food and emergency supplies) but also ensure sufficient funding for access to social services, **education**, legal aid and healthcare, including mental healthcare.

**Within current budget allocations and the future MFF, functioning asylum procedures and inclusion of asylum seekers, refugees and migrants should be supported under the suggested priorities of rule of law, fundamental rights and migration in the Instrument for Pre-Accession Assistance.**

#### 5. Protect civil society organisations working with refugees and migrants

Many organisations that support and protect refugees and migrants, are increasingly being threatened by governments which accuse them of espionage, smuggling or trafficking of human beings. New laws are being developed across Europe to make it harder for civil society organisations to operate.<sup>12</sup> This goes to the heart of the EU's values of democracy and human rights.

**We call on all European governments to work together to protect the space for civil society to operate and withdraw legislation which could arbitrarily restrict fundamental rights and freedoms of civil society.** Civil society organisations should be able to fulfill their mandate, whether it is providing support to refugees and migrants or holding governments accountable, without fearing prosecution or threats.

#### Signatories:

ADRA	European Council on Refugees and Exiles (ECRE)
Asylum Protection Center, Serbia	Info Park, Serbia
Belgrade Centre for Human Rights	International Rescue Committee
Bulgarian Helsinki Committee	Legis, FYROM
Bulgarian Red Cross	Macedonian Young Lawyers Association (MYLA)
CARE	Minority Rights Group Europe
Center for youth integration Serbia	Oxfam
Centre for Peace Studies Croatia	Praxis, Serbia
Croatian Law Centre	Refugee Aid Serbia
Danish Refugee Council	Save the Children

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<sup>12</sup> For examples, see joint statement by Are You Syrious and the Croatian Centre for Peace Studies: <http://www.statewatch.org/news/2018/may/CPS-AYS-Statement.pdf> and the 'stop Soros' law in Hungary