Refugee Protection and International Migration in the Western Balkans

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I. Executive Summary

Due to its geographical location at the crossroads between Europe and Asia, the Western Balkans has been for centuries a melting pot of civilizations. The resulting mosaic of cultures, religions and ethnicities has become one of the characteristic features of the region. Migration in the 20th century consisted primarily of voluntary and forced movements of Western Balkans nationals within and from the region. Economic stagnation and armed conflicts of the 1990s made the region unappealing or inaccessible to third country nationals. However, the gradual political and economic stabilization of the Western Balkans throughout the first decade of the 21st century, and its approximation to the European Union, have changed the migration realities.

The first part of the study provides a brief overview of past movements and explains their impact on contemporary migration dynamics. It outlines some of the factors underlying current movements of Western Balkan nationals, with focus on the largely irregular and economically driven migration towards the countries of the European Union. The study then examines the Western Balkans as a region of transit and increasingly also destination of refugees and migrants from third countries, in particular in the Middle East, North Africa and Southwest Asia. It describes the profiles and motivations of persons on the move, as well as the most commonly used migration routes and means of travel. Particular sections are devoted to vulnerable groups, such as unaccompanied and separated children and victims of trafficking.

The second part of the study analyzes some of the main protection and assistance challenges faced by various categories of persons on the move and identifies gaps in responses.

The study notes that all countries in the region are State parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. All have enacted relevant national legislation and established national asylum systems. However, serious shortcomings in the implementation of the legislation, as well as gaps in institutional structures and capacities hamper effective access to protection by those in need of it. While solutions to such deficiencies are often determined by the availability of financial resources, the creation of a conducive protection environment largely depends on the genuine political will of the

Governments. This requires recognition of asylum as a humanitarian value. Current asylum and migration policies and practices of the Western Balkan countries are, however, dominated by security concerns and growing pressure to stem irregular movements and associated transnational crime, which tend to overshadow human rights and refugee protection considerations. Refugees and asylum-seekers face a variety of protection challenges:

Even though reception centers for asylum-seekers have been established in all countries of the region, their capacities are regularly over-stretched due to increasing arrivals and delays in processing of claims which result in prolonged stay of residents. In an attempt to respond to such situations, some countries opened additional informal temporary reception facilities, where asylum-seekers blend with migrants transiting the region en route to Western Europe. Conditions in these facilities raise serious protection concerns.

Extremely low recognition rates of refugees across the region suggest that asylum-seekers may not always enjoy access to the territories and to fair and efficient asylum procedures. This has serious protection implications, including the risk of refoulement. The study examines existing mechanisms aimed at identification and referral of asylum-seekers and identifies some of the most serious deficiencies in both substantive and procedural aspects of the asylum procedures.

Lack of solutions frameworks, including integration programs, for recognized refugees and associated lack of opportunities for attaining self-reliance present another major challenge. Moreover, such lack of adequate solutions can become a push factor for many to resort to (irregular) onward movements in search of better opportunities.

The study also examines some of the protection and assistance needs of other vulnerable groups on the move, such as unaccompanied and separated children and victims of trafficking in human beings. In this regard, it draws attention in particular to the lack of proper mechanisms to identify specific needs and to provide concerned persons with appropriate assistance and solutions.

Finally, the study explores platforms for regional cooperation in the area of asylum and migration. Despite the abundance of regional and supra-regional cooperation mechanisms in which Western Balkan States participate, asylum and refugee protection are often marginalized. Most of these platforms focus on promotion of law-enforcement cooperation in combating irregular migration and trans-border crime, without due consideration of the human rights dimension. The only regional initiative that has developed a comprehensive approach to migration management and refugee protection is the Migration, Asylum, Refugees Regional Initiative (MARRI). It therefore deserves particular attention. Noteworthy are also the ongoing efforts of local civil society organizations to enhance cross-border cooperation among each other, in particular as relates to information sharing, exchange of experience and coordination of lobbying and advocacy efforts.

Building on examples of good practices from the region and beyond, the study concludes with a set of recommendations aimed at addressing some of the main protection gaps at both the national and regional levels. These recommendations are intended to inform and encourage the work of UNHCR and other interested stakeholders in assisting the Western Balkan Governments to develop and operationalize comprehensive and protection-sensitive migration and asylum systems.

II. Introduction

For the past two decades, most countries in the Western Balkans[1] have been occupied with addressing the consequences of the 1991-1995 conflicts, including the large-scale intra-regional displacement. Migration in the region has been defined primarily by outflows of Western Balkan nationals. However, over the past few years, the migration dynamics in the region have been undergoing a profound change. The ongoing political and economic stabilization of the region, as well as its geographical location in the vicinity of destination countries in the European Union, have made the Western Balkans an increasingly attractive region of transit, and to some extent also destination, of a growing number of migrants and refugees from countries outside of Europe.

Governments in the region face a particularly challenging task in addressing protection needs of people on the move in line with their obligations under international human rights and refugee law while preventing unauthorized entry and potential security threats at the EU's external border. Asylum, refugee protection and migration management have thus gained importance for concerned States attempting to adapt their policies and practices to the newly emerging realities.

In recognition of these challenges, the Western Balkan countries, in cooperation with UNHCR and IOM, have started to develop an initiative on *Refugee Protection and International Migration in the Western Balkans: Developing a Comprehensive Regional Approach*.[2] This initiative aims to develop and operationalize comprehensive migration and asylum management systems. It seeks to strengthen the capacities of States and other stakeholders to address mixed movements of migrants and refugees from outside of the region in a more predictable, efficient and protection-sensitive manner, and to foster national and regional dialogue and practical cooperation on relevant issues of common concern.

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[1] For the purpose of this paper, the Western Balkans includes Albania, Bosnia and Herzegovina, Croatia, Kosovo (UNSCR Resolution 1244/99), Montenegro, Serbia and The former Yugoslav Republic of Macedonia. All References to Kosovo throughout this paper shall be understood to be in the context of Security Council Resolution 1244 (1999).

[2] See the concept note on *Refugee Protection and International Migration in the Western Balkans: Suggestions for a Comprehensive Regional Approach*, September 2013, available at: http://www.unhcr.org/531d88ee9.html.

In 2013 participating States have taken significant steps towards the realization of the initiative through organization of a series of national consultative meetings. These meetings had helped to define key areas for action from the national perspective, taking into account the specific national context and realities of concerned countries. A regional roundtable held in December 2013 helped to further develop common understandings among Western Balkan countries at regional level.[3] Important contributions to the initiative have been made also by local civil society organizations, both through their efforts to strengthen their mutual cooperation and coordination at the regional level, and to enhance their support to Governments at the national level. These efforts were widely appreciated at the regional roundtable, where participating States expressed commitment to facilitate greater engagement of and cooperation with the local non-governmental organizations.

This paper has been commissioned by UNHCR in order to identify some of main challenges in the area of asylum and refugee protection, and to propose how these could be best addressed in a way that reconciles the legitimate concerns of States to protect their borders and territories, with their obligations under international human rights and refugee law. The outcomes of the paper will inform UNHCR's efforts to assist States in developing targeted responses to these challenges in the context of the above mentioned initiative.

In order to shed the light on the multi-faceted challenges faced by Governments in the region, the paper also provides an overview of the broader migration context in which these movements take place. While the recommendations of the paper focus primarily on measures that need to be taken to address the protection and assistance needs of refugees from third countries, these need to be part of comprehensive migration management strategies. Such strategies would include, inter alia, measures to ensure the protection of the human rights of all migrants, efforts to reduce recourse to irregular migration as well as to strengthen the link between migration and development.

The paper has been developed on the basis of review of available literature and documentation on migratory trends in the region. Information gathered through desk research has been complemented by field missions of the author to Serbia, Kosovo (UNSCR

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[3] See the Outcomes of the *Regional Roundtable on Refugee Protection and International Migration in the Western Balkans*, available at http://www.unhcr.org/pages/531d855c6.html.

Resolution 1244/99), Montenegro and the former Yugoslav Republic of Macedonia. During these visits the author obtained first-hand information through interviews with officials of state authorities responsible for asylum and migration management, as well as representatives of international and regional organizations (including UNHCR, IOM, OSCE, MARRI, OHCHR, UNODC, EU delegations) and local non-governmental organizations. Considerable insight has been gained through visits to reception centers for asylum-seekers, as well as major points of concentration of migrants along the migratory route (such as the villages of Kumanovo and Lojane), where the author conducted informal interviews with persons with various profiles.

III. Overview of past and current migration trends and developments

1. **Historical overview of the past population movements and their impact on current migration dynamics**

Migration has played an important role in the political, social and economic development of the Western Balkans. Past population movements significantly shaped its demographic composition and contributed to the ethnic, religious and cultural diversity which characterizes the region until nowadays.

1.1. Forced and voluntary movements prior to 1991

The Western Balkans has experienced complex voluntary and forced population movements throughout the history, often in response to the shifting geographic and ethnic boundaries of the region. Displacement was triggered by frequent ethnic tensions and clashes over land and access to scarce resources among the diverse communities inhabiting the region. Provincial uprisings and civil wars between local populations and administrators of the Ottoman and Austro-Hungarian Empires expanding into the region led to further dislocation of population.[4]

State-sanctioned transfers of population to, from and within the region were common during the Ottoman rule between the 16th and 19th century. Such relocations of entire communities significantly altered the ethnic and religious composition of the region.[5] Similar movements occurred later under the command of the Austro-Hungarian Empire when tens of thousands of Germans, Austrians and Hungarians settled in the Balkans. These movements were later reversed after the 1912 First Balkan War of the Balkan League[6] against the Ottoman Empire

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[4] For instance the two large-scale waves of outflow of Serbs from the Ottoman Empire to the Austo-Hungarian Empire in 1690 and 1739, known as the Great Serb Migrations. See Bougarel, X; *Balkan Muslim Diasporas and Migrations*, Uppsala Multi-ethnic Papers 49, 2005, available at: http://hal.inria.fr/docs/00/22/05/02/PDF/Balkan_Muslim_Diasporas_.pdf

[5] Hundreds of thousands of Turkic Muslims were resettled to particular sites of the newly conquered territories in the Balkans with the aim of creating ethnic mixture. This practice, known as *sürgün*, stems from an old Islamic tradition to create ethnic diversity in the newly acquired territories. See Sahara, T; *Forced Ethnic Migrations and Modernity in the Balkans*, Meiji University, 2006, available at: https://www.meiji.ac.jp/cip/english/graduate/humanities/faculty.html

[6] The Balkan League was an alliance formed in 1912 by Greece, Bulgaria, Serbia and Montenegro in opposition to the Ottoman rule. See for instance Stavrianos, L.S; *The Balkans since 1453*, London, 2000, available at: http://www.hurstpublishers.com/book/balkans-since-1453-the/

and World War I which led to the disintegration of both Ottoman and Austro-Hungarian Empires.

The Kingdom of Yugoslavia (known also as the Kingdom of Serbs, Croats and Slovenes), created in 1918 following the break-up of Ottoman and Austro-Hungarian Empires, was faced with multi-faceted challenges including recovery from extensive World War I damages and the impact of world-wide economic crisis. The unstable economic situation in the period between the 1920s and the outbreak of World War II induced massive emigration from the region, in particular to overseas countries such as the USA, Canada and Australia.[7]

The end of World War II and changes related to the new post-war arrangements in Europe[8] triggered mass departures of several ethnic minorities from the territory of the Socialist Federal Republic of Yugoslavia (SFRY).[9] According to available data, between 1945-1950 some 360,000 Germans moved to Germany and Austria, more than 200,000 Italians left the formerly Italian territories ceded to SFRY and tens of thousands Hungarians, primarily from Vojvodina, moved to Hungary.[10] The establishment of a socialist regime in the SFRY further prompted large-scale movements of about 300,000 persons of Turkish origin and Slav Muslims, to Turkey.[11] These movements continued, albeit at a slower pace, until the early 1990s.

At the same time, in the 1960s and 1970s the SFRY became a significant country of origin of labour migrants.[12] Contrary to other socialist countries at that time (including neighboring Albania),[13] nationals of the SFRY enjoyed freedom of movement and labour migration was to

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[7] Ibid.

[8] These were defined in the Paris Peace Treaties signed on 10 February 1947 and included for instance the cession of territories to Yugoslavia by Italy. See for instance the Australian Treaty Series 1948 No.2, available at http://www.austlii.edu.au/au/other/dfat/treaties/1948/2.html

[9] The Socialist Federal Republic of Yugoslavia was created in 1943.

[10] See Corrado Bonifazi and Marija Mamolo; *Past and Current Trends of Balkan Migrations*. Espace Populations Société 2004/3, 2004, available at: http://eps.revues.org/index356.html

[11] Ibid. These movements included Turks, but also Albanians and Muslims from Bosnia and Sandjak (Slav Muslims), many of whom reportedly declared a different nationality/origin in order to be able to migrate to Turkey.

[12] According to estimates, between 1964-1973 there were about 850,000 migrant workers from the former Yugoslavia living in Western Europe. See Ibid.

[13] In contrast to the neighboring countries in the region, prior to the 1990s Albanian citizens had much less freedom of movement and possibilities to emigrate. Consequently, the fall of communism and lifting of restrictions on movement in 1990 led to a massive outflow, giving rise to an Albanian diaspora estimated at between 600,000-1,100,000. See Kupiszewski, M., Kicinger, A., Kupiszewska, D., Flinterman F.H; *Labour Migration Patterns, Policies and Migration*

a certain extent encouraged by the authorities, including through framework agreements with selected countries of destination.[14] While the outflows of migrants up until the 1950s were oriented primarily to overseas countries, the main countries of destination of these new waves of outmigration were countries with growing demand for unskilled labour in Western and Northern Europe, in particular Germany, Switzerland and Austria.

1.2. Displacement resulting from the 1991-95 conflicts in the Socialist Federal Republic of Yugoslavia

Long-simmering political, ideological, economic and ethnic tensions among the republics and nations of the Socialist Federal Republic of Yugoslavia erupted when Slovenia and Croatia declared independence in 1991 and further intensified with the secession of Bosnia and Herzegovina in 1992.[15] The ensuing armed conflicts, accompanied by severe human rights violations, triggered massive forced displacement and led to what quickly became the largest refugee crisis in Europe since World War II.

Hundreds of thousands of civilians were forced to flee the direct consequences of armed conflict and/or persecution at the hands of state and non-state actors, in particular in areas where they constituted an ethnic minority. Others fell victim to forced transfers and deportations pursued under a fierce campaign of "ethnic cleansing" in a war where displacement was both a consequence and an objective of warfare.

The first mass exodus in Croatia started shortly after the outbreak of the hostilities in 1991. Thousands of ethnic Croats were expelled from areas which fell under the control of the Yugoslav People's Army (JNA) and Serb paramilitaries. Subsequently, thousands of ethnic

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Propensity in the Western Balkans, International Organization for Migration, Hungary, November 2009, available at: http://www.migrantservicecentres.org/userfile/labour_migration_patterns_policies_migration_propensity.pdf

[14] For instance framework agreements regulating immigration of Yugoslav workers to Germany, Switzerland and the Scandinavian countries. See Schierup, Carl-Ulrich; *Migration, Socialism and the International Division of Labour:The Yugoslav Experience,* Avebury, 1990, available at: http://www.econbiz.de/Record/migration-socialism-and-the-international-division-of-labour-the-yugoslavian-experience-schierup-carl-ulrik/10004096709

[15] While the declaration of independence by Slovenia triggered an intervention by the Yugoslav People's Army, the following conflict, known as the "Ten-Day War" was brief and did not result in any considerable population movements.

Serbs were forced from their homes by Croatian forces.[16] Displacement continued as the conflict intensified in 1993 and 1995. In total, about 900,000 people were displaced by the end of the conflict in Croatia in 1995.[17]

The war broke out in Bosnia and Herzegovina when the Yugoslav People's Army and the Serbian paramilitary forces moved into the eastern part of the country following the declaration of independence in March 1992. By the end of April 1992, 95% of the Muslim and Croat populations in the main urban areas in eastern Bosnia had to leave their homes.[18] Further large-scale population movements followed the outbreak of conflict between the Bosnian Croats and Bosnian Muslims in early 1993. By the end of the war in December 1995, more than half of the pre-war population of Bosnia and Herzegovina had been displaced: an estimated 1.3 million were internally displaced, some 500,000 sought refuge in neighboring countries of the region, and about 700,000 became refugees in Western Europe.[19]

In total, the 1991-95 conflicts in Yugoslavia resulted in forced displacement of nearly 3 million people. The ethnic dimension of the conflicts led to massive ethnic reshuffling in the region. Hundreds of thousands of ethnic Serbs fled to parts of the former SFRY under Serb control and hundreds of thousands of other ethnicities fled the Serbian territories. As a result, one of the successor states of the Socialist Federal Republic of Yugoslavia, the Federal Republic of Yugoslavia (constituted of present-day Serbia and Montenegro) became at the same time not only one of the world's major countries of origin of refugees, but also one of the most important host countries.

1.3. Displacement in the context of the Kosovo Crisis

Between 1989[20] and the beginning of 1998, an estimated 350,000 Kosovo Albanians left Kosovo, either to escape human rights violations and discrimination in access to rights and

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[16] In 1991 alone, the conflict in Croatia resulted in thousands of casualties, as well as more than 200,000 refugees and about 350,000 IDPs. See UN High Commissioner for Refugees (UNHCR), *The State of the World's Refugees 2000: Fifty Years of Humanitarian Action,* January 2000, page 218, available at: http://www.unhcr.org/4a4c754a9.html.

[17] Ibid.

[18] Ibid.

[19] Ibid.

[20] Movements in 1989 were triggered by partial revocation of Kosovo's autonomous status within Serbia.

services or to seek better opportunities in Western Europe. The situation in the province further exacerbated in February 1998, when the Serbian forces intensified their operations against Kosovo Albanians suspected of engagement with the Kosovo Liberation Army (KLA) that came out in open rebellion against the Serbian rule.[21] As a result, by March 1999 there were about 260,000 IDPs in Kosovo, and more than 170,000 persons sought refuge in the countries of the region, Western Europe or further afield.[22]

The already dire humanitarian crisis and massive displacement further unraveled following the 1999 NATO air campaign against the Federal Republic of Yugoslavia, including attacks on targets in Kosovo. The air campaign triggered an escalation of violence on the ground which gave way to further population movements.[23]

Following the formal acceptance of the peace plan by the Federal Republic of Yugoslavia in June 1999, hundreds of thousands of Kosovo Albanians returned back to Kosovo by the end of the year.[24] The return movements triggered a new wave of displacement, as the returning Kosovo Albanians engaged in a wave of violence and intimidation against the ethnic Serb, Roma or other minorities suspected of perpetrating and/or collaborating in past atrocities against them. As a result, more than 200,000 Serbs and other minorities left Kosovo in what became known as the "reverse ethnic cleansing."[25]

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[21] As a result of deteriorating security, some 20,000 persons fled across the mountains to Albania between May and June 1998. Others opted to seek safety in Montenegro or in Western Europe, in particular Switzerland, Italy and Germany. See UN High Commissioner for Refugees (UNHCR), *The State of the World's Refugees 2000: Fifty Years of Humanitarian Action,* January 2000, available at: http://www.unhcr.org/4a4c754a9.html.

[22] See Ibid.

[23] Thousands of Kosovo Albanians were killed, some 800,000 fled or were expelled from Kosovo. Of these, some 426,000 fled to Albania, about 45,000 to Montenegro and some 228,000 to Macedonia. About 65,000 Kosovo Albanians were denied entry and became stranded in the border area following the temporary closure of the border by the authorities of the former Yugoslav Republic of Macedonia at the beginning of April 1999. See Ibid.

[24] Within three weeks since the adoption of the peace plan in early June 1999, 500,000 people returned and by the end of 1999, more than 820,000 Kosovo Albanians returned. See Ibid.

[25] Ibid.

1.4. Displacement resulting from the 2001 conflict in the former Yugoslav Republic of Macedonia

The most recent wave of large-scale forced displacement in the region took place in 2001 in the former Yugoslav Republic of Macedonia as a result of an internal armed conflict between the government forces and the Albanian National Liberation Army (NLA).[26] The hostilities lasted for seven months and uprooted more than 170,000 persons, including about 74,000 IDPs.[27]

2. Current Migration Trends

2.1. Western Balkans as a region of origin of migrants and refugees

Following the conflicts of the 1990s and the gradual disintegration of the Socialist Federal Republic of Yugoslavia, the States in the Western Balkans were faced with a set of multiple challenges. The post-war recovery was accompanied by political instability and social tensions. In addition, the newly formed independent States had to cope with a complete break-down of the old political, social and administrative structures. Transition from state-controlled to market economies and associated economic reforms and restructuring have led to significant down-sizing and in some cases closure of traditional industries. The developing labour markets could not absorb the fast-growing labour force.

Economic stagnation and unemployment have triggered waves of labour migration. Many labour migrants could rely on the support provided by large diaspora communities established abroad over decades of outmigration and refugee movements.[28] Compared to previous waves of labour migration of mainly unskilled workers, the movements that started in the late 1990s were largely composed of highly-skilled and well-educated persons who saw no viable prospects in the region suffering from recession.

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[26] The NLA clashed with the government forces in an attempted to obtain autonomy for the Albanian-populated areas of the country.

[27] See Ibid.

[28] Countries of the Western Balkans rank among top emigration countries in the world (Albania has more than 45% of its population abroad, Bosnia and Herzegovina nearly 39%, the former Yugoslav Republic of Macedonia almost 22% and Croatia over 17%). See *Migration and Remittances Factbook 2011*, the World Bank, 2010, available at: http://siteresources.worldbank.org/INTLAC/Resources/Factbook2011-Ebook.pdf.

While substantive progress has been achieved over the past years, some of the complex challenges of the transition period are still relevant today. These continue to trigger outward movements. The majority of persons leave in search of better economic, social and educational opportunities, to escape poverty, unemployment, social exclusion and low living standards.[29] Many of those on the move originate from impoverished regions and belong to some of the ethnic minorities, such as the Roma or ethnic Albanian communities residing outside Albania. Contrary to the mass refugee outflows of the past, only few of the people leaving the region nowadays are in need of international protection. This includes for instance some members of ethnic minorities who fear persecution on the grounds of cumulative discrimination.

The presence of large and well-established diasporas, along with other factors, such as availability of job opportunities and comparably higher wages, have made Western Europe (mainly Germany, Austria, France, Switzerland) an attractive destination for labour migrants from the Western Balkans. Greece and Italy also emerged as important countries of destination, especially for circular/seasonal labour migration from Albania. While the more significant proportion of the current movements is directed towards more developed countries, the geographical proximity and cultural and linguistic affiliations stimulate also intra-regional movements, mainly of seasonal labour migrants.

Recent remittance data reflect the importance of labour migration for some countries in the region. In 2011, the remittances in Kosovo (UNSCR 1244/99) constituted almost 18% of its Gross Domestic Product (GDP), making it one of the top 10 remittance receiving countries in the world (as a share of GDP).[30] Remittances in other countries are lower, albeit considerably high compared to other countries at a global scale.[31]

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[29] Unemployment rates are varying, yet high across the region: over 45% in Kosovo (2009), more than 31% in the former Yugoslav Republic of Macedonia (2011), almost 28% in Bosnia and Herzegovina (2011), over 19% in Montenegro (2011) and Serbia (2010), and more than 13% in Croatia (2011) and Albania (2009). See World Bank Data available at: http://data.worldbank.org/indicator/SL.UEM.TOTL.ZS

[30] See Migration and Development Brief No.19, Migration and Remittances Unit of the World Bank's Development Prospects Group. November 20, 2012, available at: http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1288990760745/MigrationDevelopmentBrief19.pdf.

[31] 11% in Bosnia and Herzegovina, 9% in Albania and between 7-8% in Montenegro and Serbia. See Migration and Remittances Data, Inflows. The World Bank, November 2012, available at: http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:22759429~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html#Remittances.

While this data highlights the positive impact of migration on the economies of concerned States in the region, these movements also raise a number of important challenges, such as brain drain or high levels of depopulation of certain regions. Emigration of highly-skilled labour force has reached particularly high levels in Bosnia and Herzegovina, Croatia and the former Yugoslav Republic of Macedonia.[32] High unemployment rates, as well as lack of opportunities for further education or career advancement have led to increasing outmigration of the youth, especially at graduate level.[33]

Until recently, a large proportion of these movements used to take place in an irregular manner. The introduction of the visa-free regime for nationals of Western Balkans countries in 2009 and 2010[34] has facilitated legal travel to the EU. Since it enables citizens of the concerned countries to travel to the EU without visa for up to three months, one of its direct consequences has been a significant decrease in irregular border crossings as well as in the number of Western Balkans nationals detained in the EU for irregular stay. However, at the same time, only very limited legal migration channels are available for those Western Balkan nationals who are leaving the region with the intention to seek employment or better social opportunities in one of the EU Member States. In order to continue their stay beyond the three months period for which no visa is necessary, many opt to apply for asylum. The visa liberalization has thus been often quoted as the reason for increases in the numbers of asylum applications lodged by the nationals of some Western Balkan countries in the EU27+.[35] This number has been particularly high in 2012, when it exceeded 53,000, an increase of almost 50% compared to 2011. Asylum applications of Western Balkan nationals constituted 16% of the overall annual caseload in the EU. With more than 19,000 asylum applications lodged in 2012, Serbia was the fifth most common country of origin of asylum-seekers in the EU,[36] and

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[32] Emigration rates of population with tertiary education in all three countries are between 24-30%. See Migration and Remittances Factbook 2011, the World Bank, 2010, available at:
http://siteresources.worldbank.org/INTLAC/Resources/Factbook2011-Ebook.pdf.

[33] For instance in Bosnia and Herzegovina, youth unemployment exceeded 57% in 2012. See World Bank data, available at:
http://www.worldbank.org/en/news/feature/2013/02/14/improving-opportunities-young-people-Bosnia-Herzegovina.

[34] Visa requirements for citizens of the former Yugoslav Republic of Macedonia, Montenegro and Serbia were lifted in 2009, followed by Albania and Bosnia and Herzegovina in 2010.

[35] The proportion of the overall total applications submitted by Western Balkans citizens accounted for between 10 and 20 % of the asylum workload of the European Member States in each of the past 5 years. See European Asylum Support Office; *Annual Report on the Situation of Asylum in the European Union 2012*, 2013, available at: http://easo.europa.eu/wp-content/uploads/EASO-Annual-Report-Final.pdf

[36] After Afghanistan, the Russian Federation, Syria and Pakistan.

Kosovo (UNSCR Resolution 1244/99), the former Yugoslav Republic of Macedonia, Albania and Bosnia and Herzegovina all ranked among the top 20.[37] Even though the visa obligations for Kosovo (UNSCR Resolution 1244/99) have not been lifted, the number of asylum applications lodged by Kosovars in the EU countries had been considerably high over the last few years.[38]

The vast majority of these asylum applications are considered manifestly unfounded by the EU Member States and the recognition rates are low.[39] Unsuccessful asylum-seekers are returned to their countries of origin under readmission agreements the EU and its Member States concluded with the respective Western Balkan countries. While, as indicated above, a large number of asylum applicants from the Western Balkans seem to be driven by economic motivations, individual determination of protection needs is particularly important when deciding the cases of Roma asylum-seekers who may have been exposed to various forms of discrimination which would, depending on the circumstances of the individual cases, give rise to a well-founded fear of persecution on cumulative grounds.

As mentioned above, while visa liberalization has facilitated the movements of Western Balkans nationals to the EU, the uneven geographic distribution of claims[40] and seasonal fluctuations in numbers suggest that increases in asylum applications by Western Balkans nationals have been prompted by a combination of pull factors in countries of destination and push factors in the countries of origin (economic situation, social exclusion, discrimination).

An analysis of relevant data shows that asylum applications lodged by nationals of some countries have already been increasing (Bosnia and Herzegovina, Albania) and/or considerably high (Serbia) prior to the visa liberalization. Furthermore, while moderate (from Montenegro and Bosnia and Herzegovina) or more drastic increases in asylum requests (from the former Yugoslav Republic of Macedonia or Serbia) occurred immediately upon lifting

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[37] See Ibid.

[38] While the number has been still considerably high, it has been in fact slightly decreasing in 2011 and 2012. See Ibid.

[39] The refugee recognition rates in Member States and Schengen Associated Countries for the applicants of the five visa exempt nationalities were generally below or slightly above 1% in 2012. The recognition rate for Albania was significantly higher than those for other Western Balkan nationals. See Frontex, *Western Balkans Annual Risk Analysis 2013*, available at: http://frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2013.pdf

[40] The flows tend to concentrate in a small number of countries, in particular Germany, Sweden, Belgium and France.

the visa obligations, the most significant inflows from all six concerned countries have been registered in 2012 (2 or 3 years after the visa liberalization for these countries).

Prompted by the strain that the increasing numbers of asylum-seekers from Western Balkans put on the their reception and processing capacities, the most affected EU Member States took a variety of measures to mitigate both the pull factors at home and push factors in the countries of origin. The former included for instance introduction of accelerated procedures for asylum applications made by Western Balkans nationals, shortened processing times that in turn limit the overall amount of financial or social assistance provided to asylum-seekers, or suspensions/reductions in return assistance. EU Member States likewise sought to strengthen their cooperation with the concerned countries of origin including through supporting public information campaigns to counter false expectations of potential migrants, or launching development projects aimed at improving the living conditions of the most migration-prone communities.[41]

In 2012 several affected EU Member States approached the European Commission with a request to introduce a safeguard clause that would allow for the temporary re-introduction of visa requirements in situations when an EU Member State faces a sudden increase of irregular migrants or rejected asylum applicants. The mechanism allowing for such a suspension of the visa waiver was adopted by the European Parliament in September 2013.

In response to increasing pressure by the European Commission and the EU Member States, some countries of the Western Balkans reportedly introduced exit controls conducted on the basis of ethnic profiling, primarily targeting persons of Roma origin. Some countries likewise introduced penalties for returned failed asylum-seekers, including confiscation of their passports. Such measures raise serious human rights concerns as they violate the principle of non-discrimination as well as the right to leave one's country and the right to seek asylum.[42]

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[41] Such a project was launched for instance by Luxembourg and focused on facilitating access to decent housing, income-generating activities in the areas of traditional economic sectors, fighting high levels of school dropouts, improving access and quality of care, and community development.

[42] See Commissioner for Human Rights, Council of Europe; *The Right to Leave a Country*, October 2013, available at: http://www.coe.int/t/commissioner/source/prems/prems150813_GBR_1700_TheRightToLeaveACountry_web.pdf

2.1.1. Internal/Rural-Urban Migration

In addition to cross-border movements, unequal economic development and growth have induced also significant internal migration, particularly of the youth, from under-developed rural areas to urban centers. According to estimates, for instance at least a quarter of the population of the former Yugoslav Republic of Macedonia currently resides in the capital city Skopje.[43] Albania likewise registered a considerable long-term pattern of internal migration, mainly from the northern mountainous regions towards lowlands, coastal locations and the capital city Tirana. These movements have led to almost complete depopulation of certain areas at one hand and over-population and increasing pressure on the infrastructures of the attractive urban centers on the other hand.[44]

2.1.2. Trafficking in human beings

All countries in the Western Balkans are to a various extent countries of origin, transit and destination of trafficking in human beings. Men, women and children are being trafficked mostly for the purpose of sexual exploitation or forced labour. According to various estimates, the real extent of trafficking is considerably higher than the cases identified/reported by the concerned government authorities. Trafficking takes place internally, among countries within the region and to outside destinations.

Women originating from Western Balkans countries are trafficked for purposes of sexual exploitation or domestic servitude internally or outside of the region, mostly by deceit, after having been promised employment in waitressing, bartending or other sectors of the entertainment industry. Arranged and forced marriages, as well as exposure to trafficking by family members, continue to occur in some communities (in particular Albania). Women and

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[43] See Yusufi, Islam; *Migration from the perspective of sending country: the literature and the facts: Macedonia and Albania,* Analytical Journal,Vol.5, No.1, November 2012, available at: http://www.analyticalmk.com/files/2012/02/Islam%20Yusufi.pdf

[44] According to the government data, in the former Yugoslav Republic of Macedonia, there are currently more than 85 villages without a single resident and more than 450 villages with only up to 50 residents. In Albania, it is estimated that more than 36% of the total population currently reside in two districts surrounding the cities of Tirana and Durres. See Cipuseva, H., et all; *Brain Circulation and the Role of Diasporas in the Balkans – Albania, Kosovo and Macedonia*, South East European University, Tetovo, 2013, available at: http://wbc-inco.net/object/news/11899/attach/0_Brain_Circulation_and_the_Role_of_Diasporas_in_the_Balkans.pdf

men are likewise subjected to forced labour in the agriculture, in particular in Croatia.[45] The main destinations outside of the region for victims of trafficking originating from the Western Balkans are countries in Western and Southern Europe (Greece, Italy, Spain, Belgium, Netherlands, Germany, Austria, Switzerland, Sweden, UK, Ireland), but also countries as far as the Russian Federation, Azerbaijan or the United Arab Emirates.

Children are forced to begging or other forms of forced labour by organized criminal groups. Others are forced to prostitution, in particular on the Adriatic coast during the peak tourist season. The most vulnerable children are those of ethnic Roma, Ashkali and Egyptian descent, but reportedly also children of displaced families.

Identified foreign victims of trafficking in the Western Balkans include persons from Eastern Europe (Poland, Ukraine, Slovakia, Moldova), Philippines, but also Western Europe (Germany) and the USA. Due to shortcomings in identification and referral of victims of trafficking (see section 2.2.2 Identification and Referral of Victims), it is suspected that the incidence of trafficking of third country nationals to and through the region is much higher than officially reported.

2.2. Western Balkans as a region of transit and destination of refugees and migrants from outside of the region

Approximately since 2010 the countries in the region started receiving growing numbers of migrants and refugees from outside of the region.[46] The main countries of origin are Afghanistan, Pakistan, Somalia, Syria, Algeria, Morocco and Tunisia. Most recently there were also increasing numbers of persons from Sub-Saharan countries, in particular Eritrea and Mali. The majority are single males, between the age of 18-35 years. Many of them are merely transiting the region on their way towards the EU. Even some of those persons that

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[45] See United States of America, Department of State; *Trafficking in Persons Report 2013*, June 2013, available at: http://www.state.gov/j/tip/rls/tiprpt/2013/

[46] For instance in Bosnia and Herzegovina, in 2009 the extra-regional asylum-seekers lodged only 26% of all asylum applications received, while in 2011 they constituted 82% of the total number of asylum applicants. This trend continued throughout 2012 and early 2013. Similarly, in the former Yugoslav Republic of Macedonia, the extra-regional asylum applications made up less than 5% of the total number while in April 2013 asylum-seekers from outside of the region accounted for about 32% of all applications lodged. Source: UNHCR data.

lodge asylum-applications in one of the Western Balkan countries tend to leave before the final determination of their claims.[47]

While the strategic geographic location of the region in the neighborhood of major destination countries in the European Union undoubtedly serves as an important pull factor, these sudden increases in movements of unprecedented scale and scope can be attributed to some of the recent developments in countries located on the major migration routes from Asia, Middle East and Africa, in particular Greece and Turkey.[48]

Located at one of the most frequented transit routes for migrants wishing to reach destinations in Europe, Turkey has been facing considerable migratory pressures. Its visa policy provides for visa-free entry of citizens of a number of countries of origin of migrants in North Africa, Middle East and Central Asia.[49] Once in the Turkish territory, it is relatively easy to access the external border of the EU in Greece (in particular the 12.5 km stretch in the Orestiada area).

In response to the increasing migratory pressure, the Greek authorities took strict measures to combat irregular migration, both at the borders[50] and within the territory of Greece. Operations Xenios Zeus and Aspida resulted in mass detentions and deportations of migrants and asylum-seekers, often in violation of international human rights and refugee law. Growing xenophobia and harassment of migrants, as well as the impact of severe economic crisis that significantly limited opportunities for informal employment, prompted both newly arriving and long-staying migrants and asylum-seekers to leave the country and move elsewhere. However, due to increased border control measures implemented in the context of the above mentioned operations, it became difficult to leave Greece by intra-Schengen flights or by sea towards Italy, which used to be the most frequented routes in the past. Travel through the Western Balkans thus quickly became a relatively easy alternative.

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[47] For instance, more than 80% of asylum-seekers left Croatia in 2012 before the first instance decision on their asylum application was made. Source: UNHCR data.

[48] See for instance Frontex; *the Western Balkans Annual Risk Analysis 2013*, Warsaw, May 2013, available at: http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2013.pdf

[49] For instance holders of ordinary passports of Morocco, Tunisia, Libya, Iran, Syria and all Central Asian States are exempted from visa obligations for up to 90 days. See http://www.mfa.gov.tr/visa-information-for-foreigners.en.mfa

[50] Almost 60% of all detections of illegal border-crossings in the EU in the first half of 2012 occurred at the border between Greece and Turkey. See Frontex; the Western Balkans Annual Risk Analysis 2013, Warsaw, May 2013, available at: http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2013.pdf

The majority of persons arriving in the Western Balkans enter the region by land from Greece through the former Yugoslav Republic of Macedonia, either in the Pelagonia region (close to the city of Bitola) or in the Gevgeilija-Dojran region. Once in the territory of the former Yugoslav Republic of Macedonia, they mostly use public transportation (buses, trains) or taxis to reach the capital city of Skopje and then proceed further towards Serbia[51] or, albeit to a lesser extent, Kosovo (UNSCR Resolution 1244/99). Many spent days or weeks waiting to cross the border to Serbia in one of the border villages. One of such most frequented "concentration points" of migrants and refugees transiting the region is the village of Lojane,[52] located about 600 metres from the Serbian border.

Once in Serbia, some of the main concentration points are around Subotica and Banja Koviljaca. From Serbia some attempt to enter the EU in Hungary, while others continue their journey through Croatia towards Slovenia, crossing the Serbian-Croatian border mostly in the vicinity of the city of Tovarnik. According to available data, since 2011 there seems to be a general westward shift of movements, with growing numbers of migrants choosing to travel from Serbia to Croatia,[53] rather than to Hungary which used to be the preferred option in the past.

Another, though less frequented, route from Greece leads through Albania, Montenegro and Croatia to Slovenia.

Diversions from these main migration routes occur, in particular in response to strengthened border control measures introduced temporarily or permanently by some States. For instance, smaller numbers of persons opt to reach Croatia through Bosnia and Herzegovina, crossing

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[51] The border between the former Yugoslav Republic of Macedonia and Serbia has been under particular pressure for the last few years and is one of the most strained in the entire region. According to Frontex, 24% of all detections of illegal border-crossing in the region in 2012 were made at this border, where smuggling is believed to be increasingly organized. See Frontex, *Western Balkans Annual Risk Analysis 2013*, Warsaw, May 2013, available at: http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2013.pdf

[52] Lojane was originally a village inhabited by an ethnic Albanian community. Due to massive outmigration of its inhabitants over the last years, the village lost most of its original population. Persons on the move stay in abandoned houses or rent accommodation from remaining local inhabitants.

[53] The number of detections of illegal border crossings at the border between Croatia and Slovenia and Croatia and Serbia continued to grow since 2011, the latter having increased by 118% in 2012. See Frontex, *Western Balkans Annual Risk Analysis 2013*, Warsaw, May 2013, available at: http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2013.pdf

the river Drina on the Serbian-Bosnian border by boat. Similarly, strengthened controls at the border between Serbia and Hungary at times led to dislocation of the traditional route between these countries, prompting travelers to traverse Romania in the tri-border area between Serbia, Hungary and Romania.[54]

A significant proportion of these movements to and through the Western Balkans takes place in an irregular manner. All countries in the region have registered sharp increases in the numbers of migrants apprehended for irregular entry or stay.[55]

The increasing number of asylum–seekers has put a significant strain on the relatively new and fragile asylum systems of the countries in the region that lack the necessary experience and capacity to respond.[56] More than 6,000 asylum applications were lodged in the region in 2012 with the highest numbers recorded in Serbia, Montenegro, Croatia and the former Yugoslav Republic of Macedonia. The number of asylum-seekers in Bosnia and Herzegovina and Kosovo (UNSCR Resolution 1244/99) remained relatively modest compared to the rest of the region.[57]

Recognition rates are extremely low[58] across the region despite the fact that many asylum-seekers originate from countries of origin of refugees, such as Afghanistan, Somalia or Syria.

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[54] This trend continued in 2012 when detection of illegal border-crossing at the Romania-Serbia border showed an annual increase. See Ibid.

[55] In 2012 detections of irregular border crossings at the green borders rose by 33% and at the border crossing points by 68% compared to 2011. Detections in Serbia accounted for 40% of the regional total, followed by Croatia with 18%. During the fourth quarter of 2012 the number of detections of irregular entry by third country nationals in these two countries combined was higher than in any EU Member State, including Greece. See Frontex, *Western Balkans Annual Risk Analysis 2013*, Warsaw, May 2013, available at: http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2013.pdf

[56] In Montenegro 46 asylum claims were received between 2006-2010, 235 in 2011, 1 531 in 2012 and 355 within the first quarter of 2013 – an increase of more than 362% compared to the same period in 2012. This number rose to 578 by the end of April 2013. In Serbia 3,132 claims were registered in 2011, 2723 in 2012 and already 1591 by May 2013. In the former Yugoslav Republic of Macedonia, there were 89 applications lodged in 2009, 174 in 2010, 740 in 2011, 638 in 2012 and about 300 by April 2013. Croatia registered 1,193 asylum-seekers in 2012 (an increase of 50% compared to 2011); 807 in 2011 and 290 in 2010. By end of July 2013, 767 persons applied for asylum (520 in the same period in 2012). Source: UNHCR data.

[57] Bosnia and Herzegovina received 53 asylum applications in 2012 (35 Syrians) and 21 asylum applications as of 30 April 2013. In Kosovo (UNSCR Resolution 1244/99)31 persons claimed asylum in 2009, 271 in 2010, 188 in 2011, 45 in 2012 and 25 applicants as of 30 April 2013. Source: UNHCR data.

[58] Croatia has currently the highest recognition rate in the region. Recognition rate in 2011 was 1%, in 2012 the total recognition rate was 16.75% and the refugee recognition rate was 10.65%. (The increase in recognition rate from 2011 to 2012 can be attributed mainly to a changed method of calculation, rather than actual increase in recognition of refugee status). Source: UNHCR data.

This raises serious concerns over the quality of refugee status determination procedures and the ability of authorities to process claims in accordance with international standards.

Bosnia and Herzegovina: 10 persons have been granted refugee status and 32 persons subsidiary protection since the handover of RSD procedures to the government in 2004.

Croatia: Since 2004 until the end of July 2013, 50 persons were recognized as refugees and 47 granted subsidiary protection.

Kosovo (UNSCR Resolution 1244/99)**:** 561 asylum claims have been processed since 2009. There are no recognized refugees; subsidiary protection was granted in one case for the first time in April 2013.

Montenegro: 2 persons were granted refugee status (in 2007 and 2012), 5 persons received subsidiary protection.

The former Yugoslav Republic of Macedonia: More than 2,000 persons from outside of the region applied for asylum since 2009. There are no recognized refugees, one person was granted subsidiary protection in April 2013.

<div align="right">Source: UNHCR data as of December 2013</div>

2.3. Unaccompanied and separated children on the move

One of the most vulnerable groups on the move facing particular protection risks are unaccompanied and separated children. Within the region, the highest number of unaccompanied and separated children has been identified in Croatia. Even though the overall number of children continues to grow progressively from year to year, the number of those applying for asylum seems to be decreasing.[59] The main countries of origin are Afghanistan and Somalia, but increasingly also other countries of Sub-Saharan Africa, such as Mali and Eritrea. While most of the children originating from Afghanistan are adolescent boys of undetermined age, the unaccompanied children from African countries include a large proportion of girls, including under the age of 15. Since such long-distance unaccompanied travel of under-age girls does not correspond with the cultural traditions and

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[59] In 2011, 552 unaccompanied minors were identified in Croatia (number almost twice as high as in 2010), 197 of them applied for asylum. In 2012, there were 726 unaccompanied children intercepted at Croatian borders, out of whom 70 applied for asylum. (3 were granted refugee status and 1 subsidiary protection). By June 2013, 43 applied for asylum. See European Commission; *Communication from the Commission to the European Parliament and the Council on the Main Findings of the Comprehensive Monitoring Report on Croatia's State of Preparedness for EU Membership*, Brussels, October 2012, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/hr_rapport_2012_en.pdf

customs in their countries of origin, it is likely that these children have fallen victim to human trafficking and subsequently became stranded in the Western Balkans while in transit towards destination countries.

IV. <u>Protection Challenges and Responses</u>

1. Protecting asylum-seekers and refugees

1.1. National legal and institutional frameworks

All countries in the region[60] are State Parties to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (hereinafter the 1951 Convention) by succession or accession.[61] All have adopted national asylum laws[62] and established national asylum systems. These legal frameworks generally comply with international standards. Planned revisions and/or amendments of existing legislation reflect the continuous commitment of most countries in the region to eliminate the remaining legislative deficiencies.[63]

However in most countries of the region, gaps in institutional structures and capacities, as well as serious shortcomings in the implementation of the legislation hamper effective access to protection by those in need of it.

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[60] With the exception of Kosovo which is not a member of the United Nations and its status is formally regulated under UN SC Resolution 1244. As such, Kosovo has neither ratified the 1951 Convention no other relevant human rights instruments. However, the Constitution of Kosovo disposes that human rights instruments be directly applicable in Kosovo and have priority over laws and other acts of public institutions.

[61] Albania acceded to both instruments in 1992. Bosnia and Herzegovina succeeded to both in 1993, Croatia in 1992, Montenegro in 2006, the former Yugoslav Republic of Macedonia in 1994 and Serbia in 2001. See States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, UNHCR, available at http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=3b73b0d63&query=1951 Convention State parties

[62] Law on Movement and Stay of Aliens and Asylum in Bosnia and Herzegovina (2008) amended in 2012, Asylum Act (2007) in Croatia amended in 2010, Law on Asylum (2013) in Kosovo (UNSCR Resolution 1244/99), Law on Asylum in Serbia (2007), Law on Asylum in Montenegro (2006) with amendment planned for 2014 due to shortfalls that became apparent during implementation; and Law on Asylum and Temporary Protection (2003).

[63] By the end of 2013, Croatia is planning to replace its Asylum Act with the Act on International Protection, with the aim to harmonize the national asylum legislation with the provisions of the recast EU asylum acquis. Amendment of the Law on Asylum in Montenegro and adoption of the new law in the former Yugoslav Republic of Macedonia are planned for 2014. Preparations for the revision of the law in Serbia are likewise underway.

Relevant state authorities often lack sufficient and adequately qualified personnel. This is further exacerbated by high-turnover of staff which results in loss of acquired training, skills and experience, undermining the capacity-building efforts undertaken by UNHCR. In general, the authorities responsible for administering various parts of the asylum systems suffer from acute lack of financial and technical resources. Essential services such as the expenses for interpretation during the asylum procedure and/or free legal assistance for asylum-seekers continue to be covered largely by UNHCR in all countries of the region.

In each country of the region, different government entities have been entrusted with different tasks pertaining to the management of different parts of the asylum systems. The often unclear division of responsibilities and competencies, as well as lack of coordination and cooperation among these bodies, prevents smooth exchange of information, results in cost duplication and negatively affects the overall quality and efficiency of procedures.

In Serbia, the Asylum Office is yet to be formally established and currently operates on an ad hoc basis under the Border Police Directorate of the Ministry of Interior. Refugee status determination is thus conducted by police officers who often lack the adequate training on the principles and application of international refugee law. This may, inter alia, undermine the perception of confidentiality and impartiality necessary to create conducive conditions for asylum-seekers during the interviews.

While many of these structural and budgetary deficiencies can be overcome with time (for instance through assistance provided within the EU accession process or support from donors and international organizations), the overall degree of efficiency of institutions in charge of asylum and the extent to which the legal frameworks are translated into practice, largely depend on genuine political will to acknowledge asylum as a humanitarian value. Current asylum and migration policies and practices of the Western Balkan countries are dictated by security concerns and growing pressure to stem irregular movements and associated transnational crime, which tend to overshadow the human rights and refugee protection considerations.

1.2. Access to the territory and to asylum procedures

Following the break-up of the former Yugoslavia and the gradual establishment of independent States, the formerly internal (administrative and municipal) borders became international borders. The newly created border management agencies developed their capacities and expertise on a wide range of issues. However these institutions have been set up according to a migration scenario that is quite different from the current situation. The drastic increases in size and complexity of the largely irregular movements, as well as the lack of adequate financial resources, have affected the ability of competent authorities in the region to manage these flows. In response to this situation, some governments of the region resorted to introduction of overly restrictive and control-oriented border management policies and practices which often do not take into account the protection and assistance needs of various categories of persons on the move.

Persons in need of international protection can express their intention to seek asylum either upon arrival at the border or once in the territory of any concerned country in the region. In general, only very few persons express their intention to seek asylum at the border and/or are identified and referred to appropriate authorities by border police. This raises concern over effective access to the territory and procedures as well as over the capacity of entry officials to identify potentially vulnerable persons on the move. The vast majority of asylum-seekers express the intention to seek asylum only once in the territory, either by approaching relevant authorities on their own, through referral by NGOs, or after apprehension for irregular stay and/or attempted departure from the territory by law enforcement authorities.

There is little information on the access to the asylum procedures of persons returned to the region under readmission agreements concluded among the Western Balkans countries themselves and with the EU. Some countries of the region continue to apply the safe-third country of asylum concept and thereby return asylum-seekers to countries through which these persons passed before reaching their territories, including for instance Greece[64] and

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[64] Greece is considered not to be providing effective international protection to refugees as ruled by several courts in Europe, including the ECtHR in the M.S.S. v. Belgium and Greece. In December 2009, UNHCR issued a position paper Observations on Greece as a country of asylum, advising Governments to refrain from returning asylum-seekers to Greece under the Dublin Regulation or otherwise. See UN High Commissioner for Refugees (UNHCR), *Observations on Greece as a country of asylum*, December 2009, available at: http://www.refworld.org/docid/4b4b3fc82.html

Turkey.[65] This considerably limits the access of concerned persons to protection and may result in chain refoulement.

Entry officials often receive only basic training and lack the necessary capacity, skills and tools to distinguish between various categories on the move and to identify asylum-seekers and other vulnerable groups (potential victims of trafficking, unaccompanied and separated children, women and girls at risk, etc.). Lack of necessary language skills and/or absence of interpreters hinder effective communication with persons on the move and limit the ability of border guards to provide immediate assistance even in cases when vulnerable persons are identified. Gender imbalance among staff, as well as lack of specific training on gender and culture-sensitive approaches further complicate interactions with persons arriving at the border.

In most countries of the region there are no adequate and/or fully functioning mechanisms for referral of persons in need of international protection to appropriate authorities for adequate and timely follow-up action. Even where operating procedures have been developed, their practical implementation is hindered by lack of clarity regarding the distribution of roles and responsibilities and/or lack of cooperation and coordination among competent entities. As a result, referral may at times depend on the goodwill of entry and/or law enforcement officials who often rely on ad-hoc channels or informal/personal contact developed with staff of asylum authorities. According to testimonies of asylum-seekers and migrants interviewed in preparation of this study, when unable to secure prompt referral or provision of immediate assistance to persons in need through official channels, some border guards responded by spontaneously providing food, hygienic items, clothing or immediate medical assistance on their own expense.

Furthermore, working conditions at some border crossing points, especially in remote areas, remain inadequate. Some facilities lack even basic infrastructure (water, sanitation, electricity) and have no space available for initial reception and/or interviews with potentially vulnerable persons on the move.

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[65] Turkey never lifted the geographical limitation to the 1951 Convention relating to the Status of Refugees, which limits the recognition of refugee status by Turkey to refugees originating from Europe. Non-Europeans can only obtain a national protection status, which allows them to stay in Turkey on a temporary basis until resettlement by UNHCR.

In 2011, the Croatian Ministry of Interior, UNHCR and the NGO Croatian Law Centre concluded a *Memorandum of Understanding on Mutual Cooperation: Supporting Access to Territory and to Procedure for Granting Protection of Persons Seeking Protection in the Republic of Croatia*. This tripartite cooperation agreement represents a good example of efforts to facilitate cooperation between the authorities, UNHCR and civil society. However the agreement does not make reference to relevant provisions of international refugee law and does not clarify the protection obligations of the competent government authorities. Within the framework of this agreement, the concerned parties have developed a Border Monitoring Project[66] entitled "Monitoring Police Conduct in the Field of Illegal Migrations and Asylum," implemented since 2011. The project is implemented through a series of capacity building and monitoring exercises. It includes joint border monitoring of Croatian external and EU borders through regular and ad hoc visits to border crossing points, reception and detention centers to and revision of files related to irregular migrants to evaluate the access of asylum-seekers to the territory and procedure, training activities for border guards and officials as well as regular technical level meetings to examine monitoring findings. In 2013 the project focused on strengthening cross-border cooperation with neighboring countries, namely BiH, Montenegro and Serbia.[67]

1.3. Detention of asylum-seekers

The countries in the region largely respect the freedom of movement and right to liberty of asylum-seekers. The only country with a practice of detention of asylum-seekers, including children, is Bosnia and Herzegovina. Asylum-seekers arriving without valid documentation are detained for prolonged periods of time (sometimes ranging from 3 to 9 months) and persons who express their intention to seek asylum after having been apprehended in the territory are being issued expulsion orders in spite of their status.[68]

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[66] The Border Monitoring Project (2011-present) is a continuation of the 2008-2010 Border Monitoring Project implemented by the Ministry of Interior and the Croatian Law Centre. It was financially supported by the MATRA Programme of the Ministry of Foreign Affairs of the Kingdom of Netherlands, in partnership with the Dutch Refugee Council. Throughout the implementation of the project more than 600 interviews with intercepted irregular migrants and asylum-seekers were monitored by 27 external and independent monitors at 24 Police Stations.

[67] In 2013 4 workshops will be organized and 3 cross-border meetings will take place (Sisak, Vukovar and Dubrovnik) between Croatia, Bosnia and Herzegovina, Montenegro and Serbia.

[68] According to the 2012 Migration Profile of Bosnia and Herzegovina, 562 expulsion orders were issued in 2012 which is an increase of almost 82% compared to 309 expulsion orders issued in 2011. Mostly affected were Serbian nationals, followed by persons from Afghanistan, Somalia, Turkey, Pakistan, Syria, etc. See Ministry of Security of Bosnia and

Neither UNHCR nor its legal aid implementing partners are notified in these cases and access to detained asylum-seekers is often denied. Concerned persons thus remain without access to appropriate legal assistance, and it is not clear whether they enjoy adequate access to the procedure and to information on their rights, including the right to seek asylum.[69] This practice has become more pervasive as the number of asylum-seekers from outside the region has been increasing, suggesting that it may be used as a preventive measure designed to discourage persons from seeking asylum in the country.

1.4.   Reception arrangements

The Western Balkan countries have no formal arrangements in place to address the immediate needs of all groups of persons arriving in their territories in the context of mixed movements. The absence of measures to provide basic material and psycho-social support to all persons, irrespective of their status, may motivate persons without international protection needs to resort to asylum systems in order to secure accommodation and receive food and necessary medical treatment. This in turn results in over-crowding of reception facilities for asylum-seekers, as well as additional strain on the asylum procedures congested by unfounded asylum applications. As a consequence, persons in need of international protection face difficulties accessing the procedures and receiving adequate treatment and attention.

While adequate measures need to be taken to meet such immediate needs, facilities for migrants have to be distinguished from the reception centers for asylum-seekers that provide a wider range of services designed to address the specific needs of this particular group, in line with international standards.

Reception centers for asylum-seekers have been established in all countries of the region. Their capacities are however regularly over-stretched due to increasing numbers of newly arriving asylum-seekers, as well as delays in (registration, status determination) procedures that result in prolonged stay of residents. Relevant procedures are frequently delayed due to

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Herzegovina; *Bosnia and Herzegovina Migration Profile for the year 2012*, Sarajevo, March 2013, available at http://msb.gov.ba/PDF/Migration_Profile_2012_ENGa.pdf
[69] For instance the case of 5 asylum-seekers from Bangladesh who directly approached authorities to seek asylum in 2013 and were denied access to the procedure at the time of their request. Source: Information provided by UNHCR.

the overall lack of interpreters or available staff responsible for refugee status determination. Since identity cards are issued only to duly registered asylum-seekers, such delays impair the access of asylum-seekers to effective protection and services.

Reception facilities have the basic infrastructures in place and provide basic services, such as accommodation and food. In some cases, living conditions are sub-standard and affected by lack of regular maintenance. In addition, physical safety of residents is not always ensured and asylum-seekers reportedly suffer from sexual harassment and outbreaks of violence. Of particular concern is lack of protection-sensitive standard operating procedures and mechanisms for identification of particularly vulnerable individuals with specific assistance needs, such as victims of torture, severe trauma or trafficking in human beings.

Conditions in some of the informal/ad hoc temporary reception facilities, established mostly in an effort to quickly respond to drastic increases in arrivals, raise serious protection concerns. Most of these facilities are sub-standard and poorly managed. Lack of proper oversight and monitoring of (the identity of) residents have resulted in an "open-door policy" whereby these facilities serve as de facto "hotels" providing accommodation for various groups of persons transiting the region. Apart from occasional visits by local NGOs, there are no mechanisms in place to monitor conditions and ensure protection of residents. Women and unaccompanied children reside together with adult males and are exposed to serious protection and safety risks. Furthermore, the facilities are unguarded and offer unhindered access from outside, including by smugglers and traffickers. Recent positive development was the closure of such an informal accommodation facility in Vracevice in Serbia.

Asylum-seekers do not enjoy the right to work and are thus completely dependent on the support provided by the government authorities. Education is not accessible for all persons and persons in private accommodation face problems sending their children to school due to transportation and other financial obstacles.

In most countries of the region, asylum-seekers are only entitled to primary healthcare. Any costs for additional treatments, including life-saving medical care, must be met by asylum-seekers themselves. Psycho-social support is usually provided only by local NGOs with financial assistance provided by UNHCR.

While a limited number of local civil society organizations have been developing their expertise in the field of provision of assistance to asylum-seekers and victims of trafficking, there are currently no NGOs engaged in provision of basic services to irregular migrants, including those with particular vulnerabilities. The assistance needs of these persons thus remain largely unaddressed, with governments relying on rather ad-hoc and reactive measures at times when the situation aggravates with rising numbers.

1.5.   The asylum procedures

The agenda of the Western Balkans States has been dominated by efforts to find solutions for refugees and IDPs displaced by the Balkans conflicts. Most countries do not have an established tradition of recognizing refugees from outside of the region. In addition, their relatively recently established asylum systems are easily overwhelmed by the sharply increasing numbers of newly arriving asylum-seekers which affect their processing capacities and quality of decision-making. Deficiencies in both substantive and procedural aspects of the asylum procedures at all instances affect the quality of decisions and impair the ability of relevant authorities to effectively determine international protection needs of applicants, which may result in their refoulement.

1.5.1. Substantive deficiencies in asylum procedures

While the quality of asylum procedures differs from country to country, some of the major deficiencies are common for most countries in the region. These include for instance use of investigative interviewing techniques, lack of proper and/or selective consideration of the country of origin information, lack of substantive individual assessment of the merit of the claims, lack of clear credibility assessment, unclear standard of proof and high standards for demonstrating risk of persecution and low standard of legal analysis and reasoning which often results in unclear and incomprehensible decisions. These deficiencies in the asylum procedures affect the quality of the decisions. Recognition rates are extremely low despite the fact that many asylum-seekers come from traditional refugee producing countries.[70]

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[70] For more information on recognition rates see page 17, footnotes 58 and 59.

In addition, some countries tend to reject asylum applications without proper assessment of the merit of the case on the basis of application of concepts of safe country of origin and safe third country. In the former Yugoslav Republic of Macedonia, there is a growing trend of rejecting asylum applicants without prior hearing on the grounds of national security concerns.

Furthermore, all countries in the region lack procedures for identification and cross-referral of asylum-seekers who became victims of trafficking in human beings, torture or other severe human rights violations and trauma.

1.5.2. Procedural deficiencies

From the moment individuals express their intention to seek asylum, their procedural guarantees and rights are not always fully ensured.

Even though the right to free legal aid is guaranteed in the national legislation of all countries in the region, it is often not available in practice, either due to lack and/or deficiencies in mechanisms for appointment of lawyers or lack of funding. Legal counseling and assistance to asylum-seekers is thus mostly provided by UNHCR legal aid partners, through UNHCR funding.

Lack of interpretation (in particular in rare languages such as for instance Pashto, Farsi or Somali) at all stages of the asylum procedure represents another major protection concern shared by all countries in the region. The inability of asylum-seekers to effectively express themselves and communicate with relevant state authorities negatively affects the efficiency and fairness of refugee status determination procedures, and constitutes an obstacle in access to rights and services. In most countries, UNHCR funds the interpretation services not covered by the government.

Judicial review of administrative decisions is an indelible part of the asylum systems of all countries in the region. In most cases however, the judiciary tends to take decisions on procedural, rather than substantive grounds and remains reluctant to overturn administrative decisions unless a severe procedural breach has been established.

1.6.   Solutions for refugees

Most countries in the Western Balkans have not developed solutions frameworks and\or integration programs for recognized refugees and/or beneficiaries of subsidiary protection from outside of the region.

Due to the overall lack of other opportunities, recognized refugees often remain in the reception centers for asylum-seekers long after being granted protection which delays their effective integration into the society. Social welfare benefits and assistance are inadequate and expose persons granted protection to poverty with insufficient means to meet basic needs. Lack of local language instruction further hinders prospects for integration and access to gainful employment. Lack of employment opportunities other than poorly paid menial labour prevents refugees from becoming self-sustainable. Such lack of adequate solutions and support mechanisms can become a push factor for many to resort to (irregular) onward movements in search of better economic and social opportunities.

2. Addressing the needs of other vulnerable groups on the move

All countries in the region[71] are State Parties to international human rights conventions, including the Convention on the Rights of the Child; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Elimination of All Forms of Discrimination against Women. All have likewise ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms.[72]

Except for Croatia and the former Yugoslav Republic of Macedonia, all have also signed or acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.[73]

2.1. Addressing the protection and assistance needs of unaccompanied and separated children

Most countries in the region have not established adequate and/or fully operational mechanisms for the identification of unaccompanied and separated children seeking international protection and their referral to appropriate child protection mechanisms. Governments have no formal age assessment and BID procedures in place and no family tracing schemes have been developed. There are significant delays in appointment of legal guardians. Even if appointed, the guardian often has no or little contact with the child and is mostly present only if and when legally required.

Since the numbers of unaccompanied and separated children seeking asylum remain relatively low, they are often treated similarly as adults in respect of accommodation, healthcare and social assistance. Their accommodation and treatment do not meet international standards. Separate facilities for children are not always available and as a result, children are often accommodated together with adults. Furthermore, staff of reception

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[71] Except for Kosovo (UNSCR Resolution 1244/99).
[72] See United Nations Treaty Collection, available at https://treaties.un.org/Pages/ParticipationStatus.aspx.
[73] See Ibid.

centers is not adequately trained to respond to their needs and there is no 24-hours care available at the reception centers to ensure that vulnerable children receive the specific care that they need.

No adequate support mechanisms and assistance are available for unaccompanied and separated children outside of the asylum procedure. The absence of such systems exposes this particularly vulnerable group to further risks, including trafficking, forced labour and other forms of abuse and human rights violations.

2.2. Addressing Trafficking in Human Being

2.2.1. Legal, policy and institutional framework in the field of combatting trafficking in human beings

All countries in the region except for Kosovo (UNSCR Resolution 1244/99) are State Parties to the 2000 United Nations Convention against Transnational Organized Crime.[74] They are likewise State Parties to the Council of Europe Convention on Action against Trafficking in Human Beings.

At national level, all countries adopted comprehensive anti-trafficking legislation and policies, including national strategies and action plans[75] aimed at strengthened prosecution of traffickers, enhanced prevention and victim protection and improved national and regional cooperation. Criminal codes of all countries in the region prohibit sex and labour trafficking and prescribe sufficiently stringent and commensurate penalties for perpetrators.[76]

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[74] Albania ratified the Convention in 2002; Bosnia and Herzegovina in 2002; Croatia in 2003; the former Yugoslav Republic of Macedonia in 2005, Serbia in 2001 and Montenegro succeeded in 2006. See Status of Ratifications of the United Nations Convention against Transnational Organized Crime, UN Treaty Collection, STATUS AS AT : 08-09-2013 05:10:20 EDT; http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en#4

[75] In Montenegro Anti-trafficking Strategy for 2012-18 and Action Plan for 2012-13; In Serbia Anti-trafficking Strategy for 2013-18; in Bosnia and Herzegovina the Strategy to Combat Trafficking in Persons and a National Action Plan for 2013-15; in the former Yugoslav Republic of Macedonia National Action Plan for 2013-16; in Albania National Action Plan on the Fight against Trafficking in Persons for 2011-13; in Croatia the National Action Plan against Trafficking in Human Beings for the period 2012-15;

[76] Montenegro Article 444 of the Criminal Code; the former Yugoslav Republic of Macedonia Articles 418(a) and (d) of the Criminal Code; Serbia Article 388 of Criminal Code; Kosovo (UNSCR Resolution 1244/99) Article 171 of the Criminal Code; Croatia Article 105 of the law on Slavery and Article 106 of the Law on Trafficking in Persons; in Bosnia and Herzegovina Article 186 of the Criminal Code; Albania Articles 110(a), 128(b) and 114(b) of the Criminal code.

Even though all countries have also established institutional structures and mechanisms aimed at implementation of the relevant legal and policy frameworks, these efforts are often not translated into practice due to insufficient practical coordination and inconsistent application of standard operating procedures for identification and assistance for victims.

2.2.2. Identification and Referral of Victims

Despite the fact that the governments have developed standard operating procedures for identification and referral of victims of trafficking, these are not being consistently and fully applied by all relevant authorities. Insufficient specialized training, unclear division of roles and responsibilities among various actors (government officials and service providers from among NGOs), lack of practical cooperation among competent entities at national level and reliance on ad-hoc measures further complicate the task of adequate identification of victims and their timely referral to appropriate authorities. As a result, the number of identified victims of trafficking is low across the region,[77] in contrast to the suspected magnitude of the problem in the context of sharply increasing (irregular) migration.

While specialized websites and hotlines for potential victims of trafficking are operational in most countries, Governments tend to rely on "self-identification" by potential victims themselves and do not take the necessary and pro-active efforts to effectively screen asylum-seekers and vulnerable local and migrant populations for indicators of trafficking. There are no mechanisms for identification of potential victims of trafficking among asylum-seekers in the reception centers and migrants in detention are screened insufficiently and often without victim support and in absence of trained social workers.

Moreover, the officials of law enforcement and asylum and migration authorities do not always have a proper understanding of the difference between trafficking and smuggling in human beings. Consequently, even those potential victims of trafficking who may come forward and "self-identify" themselves, can remain unnoticed and their needs unaddressed.

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[77] In 2012 the authorities in Albania identified 42 victims of trafficking, NGOs identified additional 50 victims. In Bosnia and Herzegovina 39 victims were identified; 13 victims in Croatia; 54 in Kosovo (UNSCR Resolution 1244/99) ; 8 in Montenegro, 8 in the former Yugoslav Republic of Macedonia and 79 in Serbia.

In some countries, there is a practice of recognizing as victims of trafficking only those persons who have agreed to participate in criminal proceedings that result in convictions. This limits the victim identification to those who assist in successful prosecutions excluding victims who chose not to cooperate with police and those who did cooperate but whose trafficker was not convicted.

2.2.3. Assistance, protection and solutions for victims

Governments of the region provide modest funding to mostly NGO-operated shelters providing services and assistance to victims. In Croatia, Montenegro, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina[78] and Serbia laws provide for legal alternatives to removal of foreign victims of trafficking. Victims are eligible for temporary residence permits of varying validity. In Albania victims can apply for permanent residency after five years in the country, as well as authorization to work. In Kosovo (UNSCR Resolution 1244/99), the law does not entitle victims of trafficking to stay on humanitarian grounds or to apply for residence permits.

In addition, most countries in the region do not have functional cross-referral systems between the asylum procedure and specialized procedures for victims of trafficking. Asylum-seekers and refugees who have been trafficked thus do not always enjoy access to appropriate assistance for victims of trafficking. Similarly, victims of trafficking who may fear persecution upon return to their countries of origin may not have recourse to the asylum procedure.

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[78] In Bosnia and Herzegovina there were reports of government initiated deportation procedures against victims of trafficking without provision of adequate assistance or arrangements for safe repatriation in cases when prosecutors determined that victim's testimony was not needed or when cases where closed due to lack of evidence.

V. Regional Cooperation

The Western Balkan States are participating in a number of regional and supra-regional cooperation initiatives and processes aimed at exchange of information and experience on migration related issues in Southeastern Europe. Most of these platforms have been focused on cooperation in combating irregular migration and trans-border crime, including trafficking in human beings, from a law-enforcement perspective. The only regional initiative with a comprehensive approach to migration management, including asylum, is the Migration, Asylum, Refugees Regional Initiative (MARRI).

In addition, the Western Balkan States are also members of several regional processes with broader geographical and thematic coverage, most notably the Budapest or Prague Processes. While these consultative processes offer important platforms for exchange of information and experience, their broader geographical coverage does not always provide sufficient space for focused policy discussions on issue issues of direct relevance to the Western Balkan States.

Regional cooperation on migration related issues has been an important element of the Stabilization and Association Process (SAP) launched by the EU in 1999 within the broader objectives of enhancing cooperation with the Western Balkan countries and strengthening their institutional and operational capacity to adopt and implement European standards in view of their prospective EU accession. The Stabilisation and Association Agreements negotiated and concluded between the EU and the individual Western Balkan countries under the framework of the SAP contain provisions governing cooperation on asylum, movements of Western Balkan workers to the EU, as well as joint efforts to combat irregular migration and facilitate readmission.[79] Migration issues featured prominently also on the cooperation agenda of the 2003 EU-Western Balkans Summit in Thessaloniki. The Declaration adopted at the summit commits countries in the region to take concrete measures to promote sustainable return of refugees and IDPs, combat trafficking in human beings, address irregular migration and enhance border management and security.[80] It does not however make references to asylum and refugee protection.

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[79] For more information see the *Stabilization and Association Process: The Western Balkans*, Europa, Summaries of EU legislation available at: http://europa.eu/legislation_summaries/enlargement/western_balkans/

[80] See *EU-Western Balkans SummitThessaloniki*, C/03/163,Thessaloniki, 21 June 2003,10229/03, (Presse 163), available at: http://europa.eu/rapid/press-release_PRES-03-163_en.htm

Particularly noteworthy have been the efforts of local civil society organizations to self-mobilize themselves, leading to establishment of an informal network of NGOs working on asylum issues in the region and beyond. The NGOs share information on population movements in the region, exchange practical experience and coordinate their lobbying and advocacy efforts. A concrete example of such practical cooperation is the elaboration of a Memorandum of Understanding (Zagreb Protocol) to regulate exchange of data and information about asylum-seekers moving across the region. The NGOs also build each other's capacity by sharing of experience and skills on particular issues, such as for instance litigation in front of the European Court of Human Rights, etc. These efforts have been further reinforced through adoption of the *Skopje Declaration* at a cross-border NGO meeting held in December 2013 in the former Yugoslav Republic of Macedonia.[81] The participating NGOs from several Western Balkan countries as well as Greece, Slovenia and Turkey, identified measures for strengthened mutual coordination and practical cooperation, and explored areas in which they can provide further support to the Governments. They likewise expressed their support for the initiative on *Refugee Protection and International Migration in the Western Balkans: Developing a Comprehensive Regional Approach.*

The following sections provide a brief overview of some of the selected regional and sub-regional initiatives and structures.

1. Regional initiatives in Southeast Europe

1.1. Southeast European Cooperation Process (SEECP)

The Southeast European Cooperation Process[82] serves as a broad platform for political dialogue on a variety of issues ranging from security, justice and trans-national crime to economic development and cooperation on social, cultural and humanitarian issues. In its founding document *the Charter on good neighbourly relations, stability, security and cooperation in Southeastern Europe* (2000)[83] Member States recognized the need for

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[81] The Skopje Declaration is not yet publicly available at the time of writing.

[82] Member States include all Western Balkan countries excluding Kosovo (UNSCR 1244/99), as well as Hungary, Greece, Turkey, Slovenia, Bulgaria, Romania and Moldova. More information available at http://rspcsee.org/en/pages/read/about-seecp

[83] Available at http://rspcsee.org/en/pages/read/about-seecp/documents

enhanced regional cooperation in the area of combating irregular migration and transnational crime, including trafficking in human beings, through strengthened border control, exchange of information and strengthened cross-border coordination. The Charter emphasizes that any such efforts have to be undertaken without harassment and discrimination, and with due regard to the protection of human rights and freedom of movement. The SEECP is operationalized through the Regional Cooperation Council.

1.2.   The Regional Cooperation Council (RCC)

The Regional Cooperation Council (RCC)[84] was established in 2008 as a successor of the Stability Pact for South Eastern Europe and operates under the political guidance of the SEECP. The objectives of the RCC are to promote regional cooperation and support European and Euro-Atlantic integration of the South East European States. Within its role as a focal point for regional cooperation, the RCC strives to monitor, prioritize and harmonize regional activities undertaken in different areas of focus, including asylum and migration, through various regional initiatives and structures so as to ensure synergies and coherence,[85] and to define the agenda for regional cooperation. Particularly noteworthy are RCC's efforts to stimulate active engagement of civil society in regional activities.

Following an inclusive consultative process with a variety of stakeholders including governments and international organizations from within and outside of the region, the RCC developed a Regional Strategic Document on Justice and Home Affairs. One of the four core regional priorities identified in this document is asylum and migration.[86] The Regional Strategic Document acknowledges the pressures caused by an increasing number of asylum-seekers and migrants arriving in the region and the corresponding need to develop common approaches and responses. In this regard, it also highlights the need to afford special attention to the most vulnerable groups on the move, including victims of trafficking in human beings.

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[84] All Western Balkan States, including Kosovo (UNSCR1244/99), participate in the RCC. More information available at http://www.rcc.int/

[85] These areas include economic and social development, energy and infrastructure, justice and home affairs (including migration and asylum), security cooperation, human capital development and parliamentary cooperation.

[86] In addition to fight against trans-border organized crime, fight against corruption and cooperation in the area of fundamental rights and civil matters.

Accordingly, in its Strategy and Work Program 2014-2016,[87] the RCC sets out to enhance regional cooperation in the area of migration, asylum and refugees, including by supporting collection and exchange of information and assisting the participating States in enhancing their capacities in addressing the most pressing issues, such as asylum, respect for the principle of non-refoulement, development of migration schemes and return of migrants in an irregular situation to their countries of origin. The RCC aims to achieve this by supporting operational meetings and conferences, conducting assessments to identify the gaps and proposing coordinated regional responses to overcome these gaps.

1.3. The Migration, Asylum, Refugees Regional Initiative (MARRI)

The Migration, Asylum, Refugees Regional Initiative is an inter-governmental organization established in 2004 under the auspices of the Stability Pact for South Eastern Europe (later transformed into the RCC).[88] MARRI aims to strengthen regional cooperation and pursue coherent approaches to migration management in the Western Balkans within the overarching objective of achieving gradual harmonization with the EU and international standards. Its Programme of Action adopted in 2003 provides a comprehensive strategic and operational framework for coordinated management of population movements. It sets out detailed recommendations in six identified priority areas: asylum, regular and irregular migration, border management, visa/entry policies and sustainable return. The MARRI Strategy and Action Plan for 2011-2013[89] further elaborated on these areas with a view to adapting them to the newly arising realities and extended their scope by introducing additional proposals for improvement in the areas of document security, prevention and combating of trafficking in human beings and circular migration.

In addition to providing a number of thematic capacity building opportunities for national authorities of participating States, MARRI contributes to enhanced regional cooperation by

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[87] Available at http://www.rcc.int/files/user/docs/reports/RCC-Strategy-and-Work-Programme-2014-16-text.pdf
[88] The Member States include all Western Balkan States except for Kosovo (UNSCR1244/99). More information available at http://www.marri-rc.org/
[89] http://www.marri-rc.org/upload/Documents/Strategy%20and%20Action%20Plan%20MARRI%202011-2013.pdf

supporting the informal network of Heads of Consular Departments of SEECP[90] and the regional cooperation network between border police officers at international airports.

MARRI is the only regional initiative that offers a comprehensive approach to asylum and migration related issues with a specific focus on the Western Balkan region. Its particular value lies in its regional ownership which allows the participating States to set a flexible agenda that reflects the real concerns and challenges they are facing in practice. At the same time however, political considerations and financial constraints limit MARRI's ability to fully utilize its potential.

1.4. Southeast European Law Enforcement Centre (SELEC)

The Southeast European Law Enforcement Centre[91] was established to facilitate regional cooperation and coordination in preventing and combating trans-national crime, including trafficking in human beings. The SELEC Convention (2009)[92] provides a legal basis for the Centre's engagement in facilitation of provision of mutual assistance and support by Member States in carrying out cross-border law enforcement operations, criminal investigations and court proceedings. In addition to creating and sustaining channels for prompt exchange of information and criminal intelligence, SELEC provides operational assistance, facilitates exchange of good practices and conducts capacity-building activities for law-enforcement officers.

1.5. Southeast European Prosecutors Advisory Group (SEEPAG)

The Southeast European Prosecutors Advisory Group[93] aims at facilitation of judicial cooperation in trans-border crime investigations and cases by promoting mutual legal assistance among Member States and building their capacity to suppress, investigate and prosecute the most serious forms of organized crime, such as trafficking in human beings.

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[90] This network serves as a platform for dialogue and cooperation on a variety of issues, including irregular migration and facilitation of return and readmission of migrants in an irregular situation.

[91] Member States include all Western Balkan States except for Kosovo (UNSCR 1244/99), Greece, Turkey, Hungary, Bulgaria, Romania and Moldova. More information available at http://www.secicenter.org/m106/About+SELEC

[92] http://www.secicenter.org/p521/Convention+of+the+Southeast+European+Law+Enforcement+Center+(SELEC)

[93] Member States include all Western Balkan States except for Kosovo (UNSCR 1244/99), Greece, Turkey, Hungary, Bulgaria, Romania and Moldova. More information available at http://www.seepag.info/index.php

In addition SEEPAG has an advisory function and provides guidance on justice and law enforcement issues to lawmakers in the region. It also provides assistance in promulgation and harmonization of laws and regional agreements aimed at combating trans-national crime.

SEEPAG cooperates closely with SELEC through provision of legal advice in operational matters and support in exchange of information and evidence in trans-border investigations and criminal proceedings.

1.6. Police Cooperation Convention for Southeast Europe Secretariat (PCC-SEE)

The Police Cooperation Convention for Southeast Europe[94] provides a framework for regional cooperation in the areas of security, border management and law-enforcement. Within this context, Article 8 of the Convention contains provisions for regular exchange of information on irregular migration and smuggling of human beings. This includes information on the scale, scope and composition of migratory movements, the migratory routes, means of transportation and modus operandi employed by migrants, as well as forms of organization of smugglers.

2. Supra-regional initiatives and processes

2.1. Organization of the Black Sea Economic Cooperation (BSEC)

The Organization of the Black Sea Economic Cooperation[95] fosters cooperation on a variety of political, economic, social and cultural issues among countries of Southeastern and Eastern Europe. Through extended observer status and sectoral partnership in the implementation of

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[94] The Convention was signed in 2006 by Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Romania and Moldova and entered into force in October 2007. Bulgaria acceded to the Convention in 2008, Austria in 2011 and Hungary and Slovenia in 2012. Available at
http://www.pccseesecretariat.si/index.php?page=documentspcc&item=35
[95] Albania and Serbia are Member States, Croatia has an Observer Status and Montenegro is a Sectoral Dialogue Partner engaged in implementation of specific projects and activities. More information available at http://www.bsec-organization.org/aoc/coooeration/Pages/Information.aspx

specific activities it creates important linkages between the Black Sea region and the EC, USA as well as several countries in North Africa and Middle East.

Its *Regional Action Plan for Strengthening the Criminal Justice Response to Trafficking in Persons in the Black Sea Region* and *Joint Declaration of the Ministers of Interior on Combating Trafficking in Human Beings* (2004)[96] provide a comprehensive framework for joint action in the area of addressing and combating trafficking in human beings. Against this background, BSEC seeks to strengthen cooperation and coordination between the countries of origin, transit and destination, in particular as relates to provision of assistance and protection to victims, prosecuting perpetrators and raising public awareness on the dangers of trafficking through information campaigns. In practical terms, it seeks to promote joint capacity building, exchange of good practices in identification of victims and importantly also cooperation between government entities and non-governmental organizations in provision of assistance and protection to victims.

Contrary to the numerous Southeast European initiatives aimed at combating transnational crime and trafficking, the value added of the BSEC lies in its balanced approach that reconciles law enforcement cooperation among States with a strong victim-oriented approach and prevention efforts.

2.2. General Directors of Immigration Services Conference (GDISC)

The General Directors of Immigration Services Conference[97] is an informal forum designed to stimulate practical cooperation among immigration services in Europe so as to allow for flexible responses to changing migration patterns. It offers networks of experts and platforms for exchange of experience and best practices in the areas of asylum, migration management, return, resettlement and integration. Some of the concrete activities include exchange of relevant legal jurisprudence through establishment of a legal contact points network, enhanced cooperation on return through a Return Working Group and efforts to build

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[96] Available at http://www.bsec-organization.org/aoc/coooeration/Pages/Joint%20DeclarationFINAL%20VERSIONweb.pdf

[97] GDISC brings together the EU Member States and Schengen Associated Countries, as well as EU candidate and potential candidate countries including the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, Turkey and Iceland. More information available at http://www.gdisc.org/

capacity and exchange experience among officials of asylum and migration services through the GDISC's managers' exchange program.

2.3. The Salzburg Forum

The Salzburg Forum was established as a platform for multilateral dialogue and cooperation on issues pertaining to national security among countries of Central and Southeastern Europe.[98] Within this context it seeks to enhance policy and operational cooperation in the fields of border management, legal and irregular migration, trans-national crime, crisis management, travel documents security and counter-terrorism.

In an effort to establish effective cooperation on these issues with the neighboring regions, the Member States set up the Group of Friends of the Salzburg Forum with a specific focus on Western Balkan countries. The primary objective of this initiative is to assist the Western Balkan countries in their efforts to achieve the EU security standards, including through coordination of bilateral and multilateral activities, information exchange and sharing of relevant expertise.

2.4. The Prague Process

The Prague Process[99] is a supra-regional political initiative aimed at promotion of comprehensive and effective migration management through strengthened cooperation among countries in the EU, Eastern Europe, Western Balkans, Central Asia, the Russian Federation and Turkey.[100] *The Joint Declaration* (2009)[101] adopted by participating States defines the main principles and elements for development of migration partnerships in five main areas: 1) preventing and combating irregular migration; 2) promotion of readmission, voluntary return and sustainable reintegration of migrants; 3) facilitation of legal migration with a specific emphasis on labour migration; 4) promotion of integration of legally residing migrants in host societies; and 5) linking migration and mobility with development.

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[98] Member States include Austria, Slovakia, Czech Republic, Poland, Hungary, Bulgaria, Romania and Slovenia. Croatia has an observer status. More information available at http://www.salzburgforum.org/site/extrel.html

[99] More information available at http://www.pragueprocess.eu/english/prague-process/history/

[100] All Western Balkans countries (including Kosovo (UNSCR1244/99) participate in the Prague Process.

[101] Available at http://www.pragueprocess.eu/fileadmin/PPP/BMP_Joint_Declaration_EN.pdf

In addition to facilitating policy dialogue through meetings of experts, senior officials and ministerial conferences, the Prague Process offers also important opportunities for practical cooperation. Several Western Balkan States participate in the implementation of four pilot projects launched within the framework of the Prague Process Targeted Initiative. The project on "illegal migration" enables the participating States to share expertise regarding the conclusion and implementation of readmission agreements, and to exchange experience in organizing returns of migrants. The project on "labour migration" seeks to bring together countries of origin and destination of labour migrants with a view to identify practical difficulties in managing the flows, matching labour demand and supply and promoting legal migration through improving outreach to migrants. Another project, entitled "Quality and Training in the Asylum Processes" explores the possibility of extending the scope of implementation of the European Asylum Curriculum training program of the European Asylum Support Office (EASO) to countries outside of the EU. The Western Balkan States participated in the expert level workshop as observers and expressed interest to participate also in the capacity building component of the project.

2.5. The Budapest Process

The Budapest Process[102] is an inter-governmental consultative forum aimed at facilitation of dialogue and information and experience sharing among more than fifty participating States and international organizations within the overall objective to develop comprehensive and sustainable systems for orderly migration. It seeks to promote a harmonized approach among States in various areas, including inter alia regular and irregular migration, asylum, border management, trafficking in human beings, smuggling of migrants, readmission and return.

Of particular relevance is the Working Group on the South East European Region aimed at enhancing cooperation and information exchange with and between the countries in southeast Europe with a view to supporting sustained development of their migration systems and eventual alignment with the EU standards. In April 2012 the Working Group held a meeting focused on "Mixed Migration Flows through the South East European region." Throughout the meeting, the participating States acknowledged the need for a comprehensive regional approach in addressing the challenges arising in the context of mixed movements, and

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[102] All Western Balkan States, except for Kosovo (UNSCR 1244/99), participate in the process. More information available at http://www.budapestprocess.org/

adopted a number of broad action points for joint follow-up in the areas of irregular migration and return and protection of various groups of persons on the move.[103]

In the past years however, the focus of the Budapest Process has been mostly on promoting dialogue and cooperation in managing movements along the "Silk Routes," a wide region stretching from Asia to Europe. These efforts have further materialized through initiation of a Silk Routes Partnership for Migration in April 2013 and adoption of the Multi-Annual Strategy for 2014-2016, including the Budapest Process Silk Routes Programme, in December 2013.[104]

VI. Conclusions

Countries in the Western Balkans are at different stages of developing their asylum and migration systems and often face country-specific concerns. However, the cross-border nature and complexity of mixed movements raise a number of challenges that are common to all. Responses at national level, in absence of a regional approach, may exacerbate disparities in capacities of States. In absence of harmonized standards and coordinated responses at regional level, various groups on the move traverse those borders that are perceived to be easier to cross, and irregular migratory pressures are likely to shift to other neighbouring countries. A harmonized regional approach that would complement and reinforce the national strategies is particularly important also in the light of the joint aspirations for EU accession, which implies the need for coherent and synchronized policies, including in the field of asylum and migration.

Constructive and comprehensive management of population movements offers important opportunities and may help the Governments in the region to start capitalizing on the benefits of human mobility. It also serves as a reflection of commitment to promotion of human rights and adherence to humanitarian values and as a proof of readiness to contribute to the international community in the spirit of international burden-sharing and solidarity. Furthermore, the potential future accession to the European Union will bring about not only

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[103] The summary and conclusions of the Working Group meeting are available at http://www.icmpd.org/fileadmin/ICMPD-Website/Budapest_Process/Conclusions_BP_SEE_Zagreb_25-26_4.pdf
[104] More information available at http://www.budapestprocess.org/silk-routes-partnership

the benefits of enhanced stability and prosperity, but yields also important responsibilities to preserve and uphold EU values, including the provision of protection to those in need, a heritage that lots of the citizens of Western Balkans still painfully remember.

VII. Recommendations

The following section contains a number of suggestions that could help Governments in the region to strengthen their migration and asylum systems. These recommendations are non-exhaustive and focus on areas that can be addressed in the short or medium-term to respond to the most immediate protection and assistance needs of vulnerable individuals on the move, while at the same time enabling the Governments in the region to pursue their migration management objectives.

Particular emphasis is thus placed on recommendations relating to the entry phase including strengthened reception of arrivals and adequate profiling and referral mechanisms for a first differentiation according to profiles and needs. Further measures are likewise needed to improve the quality and efficiency of asylum systems.

Many of these challenges can be addressed through increased capacity-building and enhanced support to already established structures. It is important though to ensure that all such efforts are part of a comprehensive and coordinated strategy. Strengthening one component of the asylum and migration systems without parallel efforts to develop others (for instance enhancing reception capacities without commensurate measures to strengthen asylum processing) could invite abuse and contribute to push and pull factors underlying irregular onward movements within and from the region.

While most of the recommendations below are aimed for implementation by relevant Governments at national level, they reflect the realities and challenges faced by most or all countries in the region. Enhanced regional cooperation is thus crucial not only to share experience and information, but also develop coordinated and harmonized responses and ensure balanced capacities of States. This can help to further reduce the push and pull factors and prevent situations when irregular migratory pressures shift from country to country, thereby contributing to regional stability and security.

Data collection and analysis

- The development of mechanisms and tools for systematic collection and analysis of comprehensive and disaggregated data on movements to and through the region may help the governments to better assess the scale, scope and patterns of the movements. Both quantitative and qualitative data can be gathered for instance through standardized questionnaires, surveys or participatory assessments conducted at points of entry and departure or in the reception centers, including with assistance of civil society organizations providing direct assistance to persons on the move. Acquired information could then serve as a basis for evidence-based policy making that allows for development of targeted responses which correspond with the realities on the ground.

Access to the territory and to differentiated procedures[105] for different groups on the move (protection sensitive entry systems and profiling and referral)

- States in the region may consider developing cooperation agreements and/or memoranda of understanding between their respective border services, UNHCR and NGOs active in the area of asylum and migration.[106] These agreements may serve as a basis for joint border monitoring as well as strategic and systematic capacity building. Such joint efforts may help to ensure persons with international protection needs enjoy access to the territory and are identified in an appropriate manner.

- Establishment of effective identification and profiling mechanisms[107] can help the Governments to better differentiate between different categories of persons on the move (including asylum-seekers, refugees, victims of trafficking, women and unaccompanied minors, etc.) and to identify and address their immediate needs. At the same time, these mechanisms can help to lift the pressure on the asylum systems

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[105] Persons on the move have various profiles and protection and assistance needs that require tailored responses (for instance asylum procedures for persons in need of international protection, special protection mechanisms for victims of trafficking, child protection mechanisms, procedures to identify women and girls at risk, assisted voluntary return for persons who are neither in need of international protection nor have compelling humanitarian reasons to stay, etc.)

[106] Such tripartite agreements have been developed and successfully operationalized also in Slovenia, Romania, Bulgaria and several Central European countries. More information available at http://www.unhcr-centraleurope.org/en/what-we-do/monitoring-the-border/border-management/tripartite-agreements.html

[107] The term "identification and profiling mechanisms" refers to non-binding processes that precede the formal status determination procedures and serve to differentiate among various categories of persons on the move and identify their needs upon arrival in the host State.

by reducing the number of persons that may be otherwise inappropriately channeled into the asylum procedure. They likewise enable the Governments to collect more precise information on the profiles of the   persons in their territory, and thereby contribute to the mitigation of potential security risks.

- Such identification and profiling exercises include for instance gathering information through standardized questionnaires[108] or informal interviews and consequent establishment of preliminary profiles of arriving persons. They can be undertaken by first-contact entry officials or as part of the initial reception arrangements. Particularly efficient are deployments of mixed teams with diversified fields of expertise, composed of entry officials and experts from international and civil society organizations.[109]

- Establishment of formal referral mechanisms between the first contact government officials (border and police officials and migration and asylum authorities) would facilitate prompt exchange of information, and ensure that persons with international protection or other needs are referred to appropriate authorities for further action in a timely manner.

- Creation of mechanisms for identification, profiling and referral should be accompanied by detailed standard operating procedures to ensure their proper and efficient operationalization by competent entry and asylum and migration officials.

- The Governments in the region may solicit assistance of relevant international organizations in development of additional practical tools such as protection toolkits, operational guidelines/manuals outlining the main responsibilities, and providing practical guidance on how to identify and respond to the needs of asylum-seekers/refugees and other persons with specific needs; lists of countries and/or groups with specific protection needs; questionnaires regarding specific protection risks, etc. Joint capacity building and training programmes on appropriate utilization

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[108] See for instance a model UNHCR/IOM Joint Profiling Questionnaire available at http://www.unhcr.org/50a6466d9.html
[109] A particular good practice example in this regard is the "Lampedusa model," developed under the Praesidium project in Italy. See for instance UNHCR. Refugee Protection and International Migration: A Review of UNHCR's Operational Role in Southern Italy. PDES, September 2009. Available at http://www.unhcr.org/50a6068c9.html

of these tools for first contact entry officials would help to further ensure that such mechanisms function effectively.

- Production and dissemination of basic phrasebooks (in most commonly encountered foreign languages) may assist entry officials in their initial contacts and communication with persons arriving in the territory. Such communication is necessary to ensure referral, but also to identify and address immediate needs such persons may have upon arrival.

- The entry and law enforcement officials may benefit from systematic and continued capacity building including in the international human rights and refugee law and practical application of the international principles in practice.[110] They may likewise benefit from language instruction and trainings aimed at developing specific psycho-social skills and culture, age and gender-sensitive interviewing techniques.

- Regional capacity building activities and joint trainings, focusing on addressing specific protection challenges associated with mixed movements, will create opportunities for cross-border cooperation on issues of common concern, and foster exchange of experiences and good practices.

- Enhanced infrastructural and technical capacity at the border (appropriate access to electricity, sanitation, technical equipment and facilities such as interview rooms) can help to increase quality of treatment and also improve working environment for entry officials.

Reception arrangements

- The absence of measures to provide basic material and psycho-social support to all persons, irrespective of their status, may motivate persons without international protection needs to resort to asylum systems in order to secure accommodation and receive food and necessary medical treatment. Against this background, the

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[110] The UNHCR Manual for European Border and Entry Officials may serve as a basis for development of comprehensive training curricula for the region. Available at http://www.unhcr.org/4d948c736.html

governments in the region may consider ensuring that arrangements be in place to address the immediate needs of all persons on the move, regardless of their status.[111] Such arrangements however have to be clearly differentiated from reception centers for asylum-seekers.

- Governments are encouraged to establish and/or continue dialogue with civil society actors to identify opportunities for increased cooperation in provision of essential reception services to asylum-seekers and other vulnerable groups (identification of specific needs and vulnerabilities, legal counseling, provision of basic material and psycho-social assistance, provision of vocational training and free-time activities, etc.) This can help to increase the response capacity of the government, complement expertise and enhance the scale and quality of services provided.

- Governments are encouraged to refrain from accommodating asylum-seekers and migrants in temporary and/or informal facilities. In situations when no alternatives are available for the interim period, special attention needs to be paid to the situation of persons staying in these facilities, with a view to protecting their physical safety and fundamental rights, and ensuring unrestricted access to asylum and/or other appropriate procedures.

- Conditions in both official reception centers for asylum-seekers and temporary/informal accommodation facilities should be monitored and regular assessments of needs conducted in order to ensure appropriate standard of care and identify persons with specific needs, such as vulnerable women, unaccompanied children, torture victims, etc. Such joint assessments and interventions could be conducted by mixed teams of experts consisting of competent government officials, NGOs and staff of international organizations (UNHCR, IOM).

- Reception centers for asylum-seekers should not serve as mere accommodation facilities, but also offer services, such as counseling and psycho-social assistance,

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[111] Distinction is being made between reception arrangements designed to meet the basic immediate needs (accommodation, clothing, medical services, etc) of all arrivals regardless of their status and reception centers for asylum-seekers that provide a wider range of services designed to address the specific needs of this particular group, in line with international standards.

identification and addressing of specific needs and timely provision of information on the rights and obligations of asylum-seekers in the host country, as well as on available procedures (asylum procedure, specialized procedures for victims of trauma, trafficking, etc.) in a language that they understand. They could likewise be equipped with standard operating procedures clarifying the roles and responsibilities of various government authorities and non-governmental actors providing relevant services.

- The allocation of adequate resources is necessary to increase the standards of treatment in reception facilities, including ensuring their day-to-day operation, maintenance and security of residents, including from human smugglers and traffickers.

- States of the region are encouraged to support adequate training and continuous capacity-building of staff of authorities responsible for managing reception and detention centers (including on basic principles of international refugee and human rights law, standards of treatment, cultural sensitivity, conflict management, etc.).

- Specific arrangements and support and assistance mechanisms should be in place to address the needs of particularly vulnerable persons, such as unaccompanied children, elderly people, persons with disabilities, women at risk, victims of trauma, torture, rape and other forms of psychological, physical and sexual violence, etc.

- Consider engaging in active outreach to local communities residing in the vicinity of the reception centers for asylum-seekers to raise awareness about the status and plight of this group on the move and combat social prejudice and xenophobia. Civil society organizations can be of assistance in this regard.

Differentiated processes and procedures for different groups on the move
- Governments are encouraged to consider developing and/or strengthening the legal and policy frameworks regulating protection and assistance provided to persons whether they are in need of international protection or not, in particular the most vulnerable ones (women and girls at heightened risk, trafficked persons, etc.) and take

measures to ensure their full and effective implementation in line with international norms and standards.

- Stronger measures need to be taken to ensure that all children on the move, regardless of their status, receive immediate and unconditional protection and assistance. For instance additional measures need to be taken to establish proper age determination procedures and ensure practical adherence to the principle of the best interest of the child. The guardianship systems require significant improvements in terms of operationalization to ensure that all children enjoy unhindered access to permanent assistance and protection at all stages of their stay in the territory.

- The establishment of assisted voluntary return programmes for persons who have neither international protection needs, nor compelling humanitarian reasons to stay could help to prevent irregular onward movements and maintain the credibility of asylum systems.

Asylum Systems and Refugee Protection
- Measures to ensure that all asylum-seekers are registered without delay and provided adequate access to the asylum procedure help to ensure respect for the principle of non-refoulement.

- States in the region are encouraged to ensure full alignment of their respective national legislation with international standards, as well as more effective and consistent implementation of national legislation in practice. Elaboration of comprehensive and compatible by-laws and administrative regulations/instructions outlining mechanisms for their practical application helps to ensure effective implementation of national refugee laws in practice.

- States in the region, in cooperation with other relevant stakeholders may consider conducting assessments of the quality of their asylum procedures, including evaluation of their processing capacity, to identify existing shortcomings with a view to improving the overall quality, fairness and efficiency. Such assessments could

likewise help to identify outstanding capacity and training needs of the staff asylum authorities upon which comprehensive training programs can be built.

- Comprehensive training programs at national level could improve the understanding and application of international refugee and human rights law in general, and enhance the expertise and capacity of competent staff to implement national legislative acts and administrative regulations in particular.

- Specific training may be conducted for instance on the use of adequate interviewing techniques, asylum-trafficking nexus and relevant cross-referral mechanisms between the asylum procedure and procedures for victims of trafficking, cross-cultural communication, handling of vulnerable cases, use of interpreters, etc.

- Governments could call on UNHCR in development of additional case management and procedural tools to enhance the processing capacity of asylum authorities and the quality of asylum procedures. Such tools may include caseload analysis[112] or introduction of appropriate accelerated procedures with full respect for the principle of non-refoulement.[113]

- Governments may jointly develop coordinated systems for collection and appropriate application of accurate, impartial and regularly updated country of origin information (CoI) in their respective languages. A large collection of CoI has been made available by UNHCR through Refworld.[114]

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[112] A comprehensive analysis of received asylum applications as a group can help to obtain a broader understanding of the nature and categories of claims, including the main countries of origin, ethnic or social groups, ages, motives for departure etc.

[113] Accelerated procedures can be particularly useful in situations where asylum systems come under pressure of a large number of applicants who have manifestly no international protection needs but nevertheless apply for asylum for non-protection related reasons. However, appropriate safeguards need to be put in place to prevent potential instances of refoulement and ensure that procedural rights of applicants are not reduced. Every applicant is for instance entitled to a personal interview to have opportunity to present evidence.

[114] Accessible at http://refworld.org/.

- Procedural safeguards need to be put in place to ensure that third country nationals readmitted under readmission agreements enjoy access to fair and efficient asylum procedures and incidents of potential indirect (chain) refoulement are prevented.

- The safe third country concept should be applied only when adequate safeguards are in place to ensure that the designated country is safe for the particular individual, that s/he will be readmitted to the territory of this country and have his/her asylum claim examined in a fair and efficient asylum procedure.

- Provision of adequate documentation to asylum-seekers and refugees is essential to ensure that they are not detained or forcibly returned to countries where they would be at risk. Undocumented asylum-seekers and refugees can find themselves in a legal limbo, unable to register their claims or exercise their rights and may be exposed to harassment. Issuance of Convention Travel Documents (Article 28 of the 1951 Convention) enables recognized refugees to travel outside the territory of the country of asylum.

- Lack of interpretation or poor quality thereof has a direct impact on the outcomes of the asylum proceedings. States of the region are encouraged to consider creating a pool of interpreters (especially for languages that are not commonly used), using videoconferencing and/or outsourcing interpretation services to external service providers.

Trafficking in Human Beings
- States in the region are encouraged to take pro-active measures to identify and protect victims of trafficking among migrants and refugees traveling in mixed movements, in particular among unaccompanied and separated children, migrants in detention and/or prior to deportation. Such measures could include development and implementation of screening procedures and active outreach to places where these vulnerable populations reside, such as official and temporary/unofficial reception centres for asylum-seekers, etc.

- To ensure that such identification procedures are effective and fully operationalized, systematic and specialized training on identification and referral of victims of trafficking should be provided to all potential first contact officials (such as border police, other law enforcement officials, teachers, health and social workers, labour inspectors as well as staff of authorities responsible for adjudication of asylum claims).

- Inclusion of experienced social workers and NGOs in the screening exercises and initial contact can help to enhance the available expertise and ensure appropriate and sensitive approach to potential victims.

- Governments may consider establishing efficient cross-referral mechanisms between the asylum procedure and the procedures for victims of trafficking. This would help to ensure that asylum-seekers who may have been victims of trafficking receive specialized assistance provided under the protection systems for victims of trafficking, and that victims of trafficking who fear persecution upon return to their country of origin enjoy unhindered access to the asylum procedure.

Solutions

- Lack of adequate and effective solutions, including low prospects for self-reliance and integration opportunities for recognized refugees can become a push factor for many to resort to (irregular) onward movements. In addition to stabilizing the population movements, integration can further ensure that the potential of refugees to contribute to the growth and development of the host communities is fully realized to the benefit of all. Recognized refugees in the region can help to fill in specialized positions for which there is no local labour supply, such as for instance translation and interpretation services in foreign/rare languages.

- Specific measures need to be taken to ensure the access of recognized refugees to appropriate housing, medical services and education (including local language courses) and vocational training. Governments may consider engaging with NGOs and international organizations to develop comprehensive integration programs for refugees from third countries.

- Governments in the region may enlist the assistance of international organizations and civil society to develop (assisted) voluntary return programs for persons who are neither in need of international protection nor have compelling humanitarian reasons to stay in the host country and who wish to return to their countries of origin.

- The Governments, in cooperation with other relevant stakeholders including civil society may consider conducting public awareness and information campaigns aimed at sensitizing the local population about the plight of refugees. This may help to combat prejudice and xenophobia and contribute to more harmonious community relations.

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