



**BETWEEN CLOSED BORDERS 2018**

*Joint agency paper on refugees  
and migrants in Serbia 2018*







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JOINT AGENCY PAPER ON REFUGEES AND MIGRANTS  
**IN SERBIA 2018**



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# Foreword

Dear Reader,

For the second year the Humanitarian Centre for Integration and Tolerance (HCIT) and the Crisis Response and Policy Centre (CRPC) present us with a wealth of invaluable data and testimonies, which they collected in their daily work with refugees and migrants, from authorities and other sources in the City of Belgrade and the Autonomous Province of Vojvodina. *Between Closed Borders* is thus of interest to every reader who seeks to better understand developments and trends in the situation of refugees and migrants in the Republic of Serbia.

Some experts observed that in 2018 the numbers of migrants in Serbia may have reverted to that before the refugee crisis of 2015, though with three marked differences:

As the title *Between Closed Borders* recalls, at the turn of 2015-2016, lacking the unity and political will to implement relevant laws, European Union (EU) member states ended the flight of close to one million mainly Syrian refugees by refusing access to asylum on their territories bordering the Republic of Serbia. While this terminated the refugee emergency, it also led to more refugees and migrants staying in Serbia longer and to them being subjected to new harrowing levels of exploitation by smugglers and authorities whenever they tried to irregularly depart Serbia again on the so-called West Balkan route. *Between Closed Borders* documents this exploitation and abuse for example through testimonies of unlawful, often violent, denials of asylum and collective expulsions of over 10,000 refugees or migrants by EU states back into Serbia during 2018 alone.

A second difference to the pre-2015 situation is related to authorities' strengthening of reception conditions – in 2018 mainly funded by the EU. As *Between Closed Borders* also shows, the number of refugees and migrants who camped spontaneously or in informal sites in Serbia again decreased in 2018 as even unregistered migrants could enjoy free food, shelter and other services in well-equipped governmental centres. Reports of big numbers of refugees and migrants camping clandestinely in the woods when transiting Serbia more easily before 2015, thus did not repeat themselves in 2018, when more refugees and migrants became visible when enjoying access to humanitarian aid and services in governmental centres.

While the number of asylum-seekers in the EU continued decreasing in 2018, the number of new refugees seeking and receiving protection in Serbia increased towards the end of the year. This third marked difference to the pre-2015 situation was caused by the adoption of a new Asylum Law in Serbia in the spring of 2018, the commencement of its implementation by authorities in the autumn, as well as

by the daily efforts of CRPC, HCIT and other partners of the United Nations High Commissioner for Refugees (UNHCR) to thoroughly inform all refugees about their right to apply for asylum in the Republic of Serbia, in counselling them on relevant procedures and in referring them to responsible authorities, legal, social and other services. UNHCR has welcomed this increase in the quality and quantity of refugee recognitions by authorities as the most positive development in migration and asylum management in the Republic of Serbia during 2018. And – as I write this foreword – I am pleased to confirm that this positive trend continued to accelerate during the first half of 2019. As a result, UNHCR and its partners could greatly augment their support to authorities and this however small number of newly recognised refugees. We must assist them in their efforts to successfully start a new life by learning the Serbian language, finding work or education, housing and new friends in their hospitable host communities here in Serbia.

Amongst the new trends of 2018, which HCIT and CRPC document so well in this report, at least another two deserve being highlighted. Faced with closed borders and push-backs, refugees and migrants as well as smugglers continue seeking new alternative routes. Starting in the spring of 2018 more tried to reach Croatia through Bosnia and Herzegovina leading to repercussions also in Serbia (well-described in *Between Closed Borders*).

As for 2017, a special chapter of the 2018 HCIT/CRPC report is dedicated to refugees and migrants with specific needs, including unaccompanied and separated children. The global trend of growing numbers of unaccompanied or separated migrant and refugee children facing great dangers and hardship is reflected also in Serbia. While *Between Closed Borders* observes improvements made by Serbian authorities, it also identifies areas that require urgent further attention and investment to secure adequate protection and care for these children.

Allow me to close by paying respect to all the extraordinarily skilled and experienced colleagues of CRPC and HCIT and their great efforts to support Serbian authorities in identifying and addressing all the diverse individual needs of refugees. As they were advising refugees to seek and obtain due protection in Serbia, they collected all the invaluable information now published in *Between Closed Borders 2018*. It is their and other partners' dedication and team-work which saved and restored dignity to the lives of many refugees. UNHCR is greatly honoured to be working with them so closely.

**Hans Friedrich Schodder**

Representative of the United Nations High Commissioner for Refugees  
Resident Coordinator of the United Nations a.i. in the Republic of Serbia

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# Introduction

This paper focuses on Belgrade and border areas – exit points in Serbia, where Crisis Response and Policy Centre (CRPC) and Humanitarian Center for Integration and Tolerance (HCIT) conduct part of their protection activities with refugees, migrants and asylum seekers.

The refugee situation in 2018 stabilized and moved from emergency and transit to a more stable situation. Refugees and migrants were staying in Serbia for longer periods of time, requiring a more systematic protection approach. Given the constant presence of smugglers, despite the closure of the route and violence at borders, this population is in even greater and constant need of counselling and information on asylum in Serbia.

Throughout 2018, UNHCR estimated that more than 16,000 refugees and migrants entered Serbia, originating mostly from Afghanistan, Pakistan, Iran and other countries. The child protection system faced a higher number of unaccompanied and separated children (UASC), especially in mid-summer. Segments of this paper offer analyses of the observed new arrivals, depicting the field experience and protection work of two partner organisations.

This paper represents the continuous work of HCIT and CRPC with refugees and potential asylum seekers in 2018, with specific focus on Belgrade and border areas, trends and conditions, new arrivals, unaccompanied and separated children, cases of collective expulsions from the local point of view. Additionally, since 2018 was marked by the adoption of new asylum and migration legislation, this paper also covers the changes introduced by the new Law on Asylum and Temporary Protection, as well as the practice of misdemeanour courts in AP Vojvodina.

Compared to the previous year, 2018 brought further changes in the national legislation and its implementation. According to official statistics provided by the Asylum Office, 8,436 foreigners expressed intention to seek asylum in Serbia. However, only 327 asylum requests were officially submitted to the Asylum Office. The Asylum Office granted 11 refugee and 14 subsidiary protection statuses during the year.

The long-awaited set of new asylum and migration laws was adopted by the National Assembly of Republic of Serbia on March 22, 2018:

- ▶ Law on Asylum and Temporary Protection<sup>1</sup>, which came into force on June 3;
- ▶ Law on Foreigners<sup>2</sup> came into effect on April 3, though its application was postponed by six months and it came into force on October 3, and
- ▶ Law on Border Control<sup>3</sup> that also started with application in October 2018.

At the same time, irregular arrivals and departures continued during 2018 – therefore this paper presents local field experience and findings collected. A number of newly arrived refugees and migrants proceeded directly to border areas, bypassing Belgrade, in an attempt to continue their journey as quickly as possible. In addition to the already known mixed migration routes across Serbia and attempts to enter Hungary, Croatia and Romania, a new route via Bosnia and Herzegovina<sup>4</sup> became widely established in 2018. Massive influx of refugees and migrants into Bosnia was the most significant event on a regional level last year. It affected Serbia as a certain number of refugees and migrants were continuously denied access to Bosnian territory and pushed-back to Serbia. Loznica, a small town located on the Drina River, some 140 km south-west from Belgrade, saw an increase in the number of arrivals with refugees and migrants crossing the Drina River and entering Bosnia from that point.

As in the previous years, in addition to their regular protection activities, mainly provision of information and counselling on asylum etc, HCIT and CRPC continued documenting and collecting testimonies of refugees and potential asylum seekers who were reportedly pushed-back from the neighbouring EU countries but also from Bosnia and Herzegovina. In 2018, HCIT and CRPC documented almost one thousand push-back incidents involving more than 10,000 foreign nationals who were reportedly unlawfully expelled from Hungary, Croatia, Romania and Bosnia and Herzegovina. Based on information collected in the field, a trend of severe and extreme violence at the EU borders reported in the period 2016 - 2017, decreased in 2018. Nonetheless, many forms of ill treatment remained, and a significant number of vulnerable individuals was faced with serious human rights violations, including humiliating and degrading behaviour.

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1 *Official Gazette RS*, No. 24/2018

2 *Ibid.*

3 *Ibid.*

4 In future text – mostly referred as Bosnia.

When it comes to irregular accommodation and squats, according to daily field observation by both CRPC and HCIT teams, the number of persons sleeping rough in various locations in Serbia decreased relative to 2017. Therefore, depending on weather conditions and the season, the number of rough sleepers fluctuated from 100 to 300 persons at various locations throughout 2018.

Reception conditions improved throughout the year. Additionally, due to operationalisation and field situation response, 16 of the 19 centres were active with up to 90% of overall capacity. Although movement of the refugee and migrant population created pressure on centres near the exit points in Serbia, such as Adasevci and Principovac, during the year, the number of refugees, asylum seekers and migrants accommodated in government-run facilities, Asylum and Reception-Transit Centres, did not exceed a couple of thousands persons at any given moment.

In addition to the above-mentioned, a systematic protection response for refugees, migrants and asylum seekers continued in 2018. For the second consecutive year, refugee and migrant children attended public primary and secondary schools in Serbia, including preschool children<sup>5</sup>, which is an example of successful cooperation of public and civil sector and international organisations that endorsed the idea in its initial stage and continuously contributed to its daily implementation.

Finally, all the information and cases presented in this paper are authentic, depicting genuine personal testimonies of interviewed refugees and migrants based on their personal experiences. All the names and personal data have been changed for protection reasons. CRPC and HCIT would like to stress that information presented herein was obtained through daily activities in the field and is indicative of certain trends and patterns observed.

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<sup>5</sup> Supported school enrolment and attendance of refugee children, including UASC of school age, assisted in adapting to formal school environment, homework, attending schools. Also, both refugee parents and teachers and school staff were supported as well, through various programmes (Quantitative Snapshot of the UNHCR Serbia 2018 Programme, <https://data2.unhcr.org/en/documents/download/67961>).

# Belgrade overview

Well connected with other regions of the country, the state capital continued to be one of the main junction points regarding migration and refugee flows throughout Serbia in 2018. Those who arrived in this country for the first time usually stopped there, seeking services, asylum or tried to find accommodation and rest before continuing to the north. On the other hand, this city was of interest for many of those who failed or were pushed-back during border crossing and were trying to find accommodation in one of the government-run centres, preferably in the nearby Krnjaca Asylum Centre (AC) or Obrenovac Reception-Transit Centre (RTC). During 2018, Belgrade was a common stop-point for those who returned voluntarily from Bosnia and Herzegovina as well.

Most prominent locations in the state capital where migrant and refugee population gathered were in the central area of the city, near the main bus and railway station. More centralised services and service providers, easier access to medical, legal and other actors and institutions, hotels and hostels, close proximity of police station, Centre for Social Work and SCRM<sup>6</sup> outreach staff, Miksaliste and Info Park hubs etc. could be some of the reasons why majority of the population was observed on these locations.



*Map of Belgrade central area with locations of concern*

<sup>6</sup> Commissariat for Refugees and Migration of the Republic of Serbia (SCRM)

Belgrade new arrivals in 2018 followed similar movement pathways as in the previous year.<sup>7</sup> The majority of people who came to Belgrade approached NGOs or SCRM, seeking information and inquired about registration or accommodation. Some briefly stopped in the capital and continued directly to borders with Hungary, Croatia or Bosnia and Herzegovina mostly. Also, those who planned to go for a “game”<sup>8</sup> would gather in Belgrade to meet with smugglers before setting off to the border. Some of the newly arrived individuals stayed in private houses, accommodation provided by smugglers, squats and improvised shelters in abandoned buildings near the River Sava, hotels and hostels, and turned for help after depleting funds or losing accommodation. Among those who gathered in Belgrade central area were also people who had already been accommodated in some of the centres and sought to change their designated centre.

At the beginning of summer, there was a huge influx of possible UASC, which significantly stretched available protection capacities, of both state and civil society actors. More on UASC related issues can be found in a separate chapter of this paper.

During this continuous influx of new arrivals, adult single men often tried to approach Obrenovac RTC directly (which was designated by SCRM as a centre for accommodation of those refugees and migrants). This led to frequent overcrowding of Obrenovac RTC and consequently occasional cessation of admission of new arrivals to this centre. Along with influx of arrivals from other centres, this contributed to more persons residing in Belgrade central area irregularly and created a constant movement of persons between Belgrade central area and Obrenovac.

Irregular shelters continued to be identified in 2018. Compared to the previous year when there was a complex of barracks behind the main train station that developed as one if not the biggest improvised irregular shelter in the country,<sup>9</sup> during 2018 there were many smaller shelters dispersed over a wider area in Belgrade. This made the identification of vulnerable individuals much harder. Two most prominent shelters were:

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7 For comparison, see Vukasevic, I. et al. (2018). *Between closed borders, Joint agency paper on refugees and migrants in Serbia 2017*, Belgrade: Crisis Response and Policy Centre

8 Going on “game” is a term used by refugees and migrants for irregular border crossing attempt.

9 During spring of 2017, the population at this improvised shelter reached almost 2,000 persons, including nearby carparks, abandoned buildings and the actual barracks complex behind the main train station in Belgrade. As part of a nearby construction site for a building complex, barracks were demolished in May 2017. For comparison, see Vukasevic, I. et al. (2018). *Between closed borders, Joint agency paper on refugees and migrants in Serbia 2017*, Belgrade: Crisis Response and Policy Centre

- ▶ Former “Simpo” building,<sup>10</sup> located next to Bristol Park, which was demolished by the end of October 2018.
- ▶ Privately owned and under construction building in Gavrića Principa St. near Miksaliste and Info Park. Throughout the year refugees and migrants were relocated several times from this location by SCRIM and police. The building was closed off by the owner eventually.

Numbers of persons sleeping in improvised and irregular shelters fluctuated from 100 to 300 through 2018,<sup>11</sup> which is 20 times less than in the previous year and is a significant decrease.<sup>12</sup> Unlike 2017, persons spent less time sleeping in improvised irregular shelters, tried to access state accommodation or fluctuated towards borders.

To summarise, many of the challenges were similar as in 2017:

- ▶ Need of identification and service provision to vulnerable persons (UASC, women travelling alone, families with children...)
- ▶ Delays and inconsistencies in access to services (some new arrivals faced such challenges when accessing police registration, appropriate interpretation provision, medical assistance etc.)
- ▶ Thefts, arguments, violence, exploitation, abuse (mostly among refugee and migrant population or, in few cases, toward domicile population and vice versa)
- ▶ Access to transport – continued to be a twofold issue – as organised transport from Belgrade to designated accommodation centres mostly not being available and as occasional lack of access to public transport (in the form of refusal to sell bus/train tickets to refugee and migrant population).
- ▶ Neighbours’ complaints about littering, hygiene and crowding around Miksaliste hub.

Some of the newly identified challenges in 2018 were:

- ▶ Cancellation of outreach social workers service in winter and early spring 2018 influenced protection of UASC and other vulnerable persons and made it more difficult for all actors on the field, who had to rely mostly on the city Centre for Social Work with often limited capacities.

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<sup>10</sup> Building previously owned by “Simpo” Furniture Factory from Vranje, Serbia; situated in close proximity of the main bus station and the nearby park.

<sup>11</sup> UNHCR, Inter-Agency Operational updates 2018, January-December 2018, <https://data2.unhcr.org/>

<sup>12</sup> For comparison, see Vukasevic, I. et al. (2018). *Between closed borders, Joint agency paper on refugees and migrants in Serbia 2017*, Belgrade: Crisis Response and Policy Centre, p. 22

- ▶ Huge influx of possible UASC and new arrivals during summer and autumn presented a challenge in the efficient identification of vulnerable persons and groups.
- ▶ Under the influence of false information by smugglers, an increased number of adult men was observed declaring they were under 18 in order to obtain more favourable position – to be registered as UASC, targeting nearby Krnjaca AC as their designated centre.
- ▶ Dispersion of irregular shelters, squats and similar, but also increased use of private houses and other accommodation – also made it harder to efficiently identify vulnerable persons and groups, possible cases of abuse, violence, SGBV, trafficking and similar.
- ▶ Visa liberation agreement regime for Iranian citizens led to misuses and consequent reintroduction of visas. Again, identification of vulnerable persons from this population was often difficult.
- ▶ Reorganization and rationalization of government run accommodation facilities –Presevo, Divljana and Dimitrovgrad were temporarily closed since their occupancy was less than 5%. However, RTC Sid that was inactivated in May 2017, reopened in November 2018. This trend directly influenced referral mechanism on a local level.
- ▶ Relocation of Belgrade Main Railway Station to new Prokop Station (July 1, 2018). This caused potential logistic issues with people who got registration papers and needed to reach their designated centres within the 72 hours timeframe, forcing them to shift to different means of transport and commute with difficulties from the capital.

## Refugee Aid Miksaliste Hub

Most of refugees, migrants and asylum seekers who came to Belgrade approached Refugee Aid Miksaliste and organisations which had their teams there, including CRPC. They received information on applying for asylum in Serbia, accessed different services like free Wi-Fi and phone charging, received NFIs, used facilities such as the children corner etc. CRPC worked on providing better access to general information, medical, legal, psychological and other services. Also, CRPC provided cultural mediation, interpretation and translation services in various languages such as Arabic, Farsi, Urdu, Kurdish, Pashto and other. It facilitated



Assistance to new arrivals in Miksaliste, November 2018. Photo: CRPC

beneficiaries' access to appropriate institutions for further assistance – hospitals, medical specialist, lawyers etc.

Besides newly arrived individuals, Miksaliste was frequently visited by people accommodated in Krnjaca AC and Obrenovac, as well as refugees, migrants and asylum seekers from other centres in Serbia, inquiring about various form of assistance. Therefore, CRPC was able to provide different monthly services for more than 2,000 persons, including asylum and general information, access to registration, referrals to state and specialised services

(accommodation, legal, medical, psychological...), transport and escort to different institutions, cultural mediation and interpretation in different languages, such as Farsi, Urdu, Arabic, Kurdish and other languages...

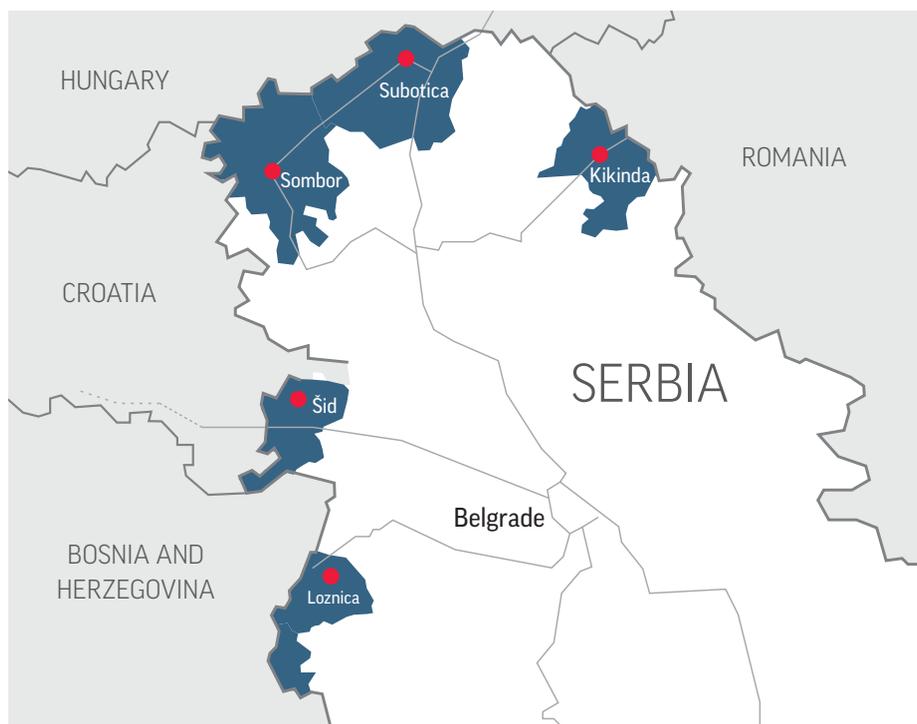
This high fluctuation of the population allowed staff to organize more centralised and organised solutions for their needs and eased identification and protection of vulnerable individuals, such as children who travel alone, families with small children, persons with disabilities etc. According to CRPC data, almost every third beneficiary in Belgrade was a child (of which 5% were girls) while women were 10% of the population. Staff worked with nationals of 38 counties, predominantly with persons from Afghanistan (40%), Iran (18%), Pakistan (17%), Iraq (12%), Syria (4%) and other countries.

Protection response was additionally strengthened with Commissariat's taking over of a night shift management in Miksaliste in May 2018. However, a new regulation was introduced according to which only women and children were allowed to stay overnight in Miksaliste while waiting for registration at the police.

## Border areas overview

For the purpose of this paper, a term “border area” will be used to signify areas where HCIT teams were operational. It relates to specific municipalities such as Subotica, Horgos, Kanjiza, Sombor Sid, Kikinda and Loznica, villages that are located in the vicinity of borders with Hungary, Croatia, Romania and Bosnia, but also to uninhabited area between “green” borders and local municipalities. HCIT also closely monitored arrivals in border areas, onward movements, trends and informal sites of gatherings.

Having in mind the specific location of Autonomous Province (AP) of Vojvodina, the entirety of the refugee and migrant population attempting to leave Serbia, either through regular or irregular pathways, had to pass through AP Vojvodina at some point. Throughout the year, six reception and transit centres were operational in this area – in Kikinda, Subotica, Sombor, Adasevci, Principovac, and since late autumn, again in Sid.



*Map of Border areas with locations of concern*

Admission procedure of asylum-seekers from Serbia to Hungary continued in 2018 as during the previous two years. At the weekly level, approximately 10 persons on both Transit gates (Horgos and Kelebija) were allowed to enter transit zones and submit asylum requests. Transit containers were set up for housing all asylum-seekers at transit zones and the only ones exempt from this rule were UASC under 14 years of age.

During 2018, HCIT teams continued to provide counselling to foreign nationals likely in need of international protection about the asylum procedure in Republic of Serbia, as well as their rights and obligations under the asylum system and to facilitate their access to asylum procedure with direct support in registration at local police stations. HCIT worked from two outreach offices, in Sid and Subotica. In addition, HCIT systematically monitored border areas and reported on protection incidents, cases of human rights violations and push-backs from neighbouring countries – Hungary, Croatia and Romania, but also Bosnia and Herzegovina. Testimonies were meticulously collected for the purposes of possible legal actions. Furthermore, persons were enabled to access adequate procedures and local institutions (access to accommodation, health care services, documentation, legal representation, etc.)

HCIT protection teams were daily present in the north, north-east and north-west of the country. Specifically, aside from the field offices in Subotica and Sid, HCIT mobile teams were covering Hungarian, Croatian and Romanian border areas. As of July 2018, HCIT field protection teams were also present in Loznica and were monitoring movements to and from Bosnia.

# Arrivals to border areas and Belgrade

Although the Western Balkan route is long closed, refugees and migrants continue to travel to and through Serbia using the same routes from before the closure, following the EU-Turkey Statement in March 2016. Following the path of one of the main migratory routes towards EU, they entered Serbia mostly from the direction of the Republic of North Macedonia and Bulgaria, but also Romania, Croatia, Bosnia and Herzegovina and other countries. Newly arrived persons were observed mostly near local meeting spots, regional and local bus, railway and other traffic intersections and accommodation centres in Belgrade and border areas, as well as near the so-called “exit points” of Serbia. According to CRPC and HCIT field observation, persons arrived by land (81.5%) and air (18.5%).

According to FRONTEX, throughout the year, more than 56,000 irregular border crossings were detected, including increased land crossings from Turkey to Greece.<sup>13</sup> Despite stricter border controls, two main routes were identified in the Western Balkans, and migrations shifted throughout the year, following the harshening of border control – “the central route via Serbia and the route stemming from the Greek-Albanian border section, along the Bosnian and Herzegovinian–Croatian–Slovenian corridor and, to a lesser extent, on Serbia’s EU borders with Hungary, Croatia and Romania”.<sup>14</sup>

Throughout 2018, use of the Bosnian route intensified. According to IOM report,<sup>15</sup> between January and December 2018, authorities registered a total of 23,848 migrants and refugees that had entered Bosnia and Herzegovina, which was twenty times more than the 1,116 reported in 2017 and almost double the 2017 yearly total reported in all countries of the Western Balkan combined. The so called “Drina route” stretched for 200km between Serbia and Bosnia and divided by the Drina River, proved to be dangerous and extremely risky. During 2018, reportedly 12 persons drowned in a desperate attempt to access Bosnian territory.<sup>16</sup>

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13 FRONTEX, Risk analysis for 2019, [https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Risk\\_Analysis/Risk\\_Analysis\\_for\\_2019.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2019.pdf)

14 Ibid. p.17

15 IOM - DTM Mediterranean, Mixed Migration Flows in Western Balkans 2018 Overview, <https://migration.iom.int/reports/europe-%E2%80%94-mixed-migration-flows-western-balkans-2018-overview>

16 Balkan Insight, “Bosnia Records 12 Migrant Deaths in 2018”, March 7, 2019, <https://balkaninsight.com/2019/03/07/bosnia-records-12-migrant-deaths-in-2018/>



Map of Serbia – main transitory routes

An estimated number of persons who entered Serbia exceeds 16,000.<sup>17</sup> According to SCRM, more than 18,000 of new accommodations were provided into asylum and reception centres in the same period.<sup>18</sup> On the other hand, the number of refugees, migrants and asylum seekers in Serbia in accommodation centres and improvised shelters, hostels and similar, monthly ranged from approximately 3,000-4,000 persons (4,500 in December 2018)<sup>19</sup>, many staying in Serbia for prolonged period, some over two years.

With the coming of spring, the number of new arrivals increased steadily and peaked during the summer. Influx of Pakistani men travelling from Greece, who had stayed a considerable time in this EU country, arrived in Serbia through North Macedonia. During the second part of the year, a significant influx of unaccompanied children was observed, entering from the direction of Bulgaria and North Macedonia. It is estimated that less than a third of this population remained in the country by the end of 2018.<sup>20</sup> Among the observed new arrivals HCIT identified, every third child at exit points was UASC.



Rest after arrival, Belgrade, June 2018. Photo: CRPC

Throughout the year, CRPC and HCIT, in coordination with UNHCR, observed and focused on new arrivals who had entered Serbia during the past few days or during the past month. The new arrivals were counselled and interviewed, some were assisted on the spot and referred in accordance with their needs and inquiries to service providers – both state institutions and specialized civil society organizations.

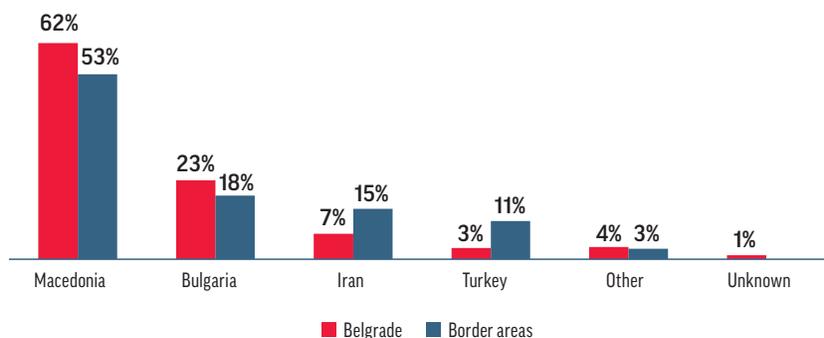
17 Quantitative Snapshot of the UNHCR Serbia 2018 Programme, February 2019, <https://reliefweb.int/sites/reliefweb.int/files/resources/67961.pdf>

18 Migration Open House in Obrenovac materials, March 26, the Commissariat for Refugees and Migration of the Republic of Serbia

19 UNHCR Inter-Agency Operational updates 2018, <https://data2.unhcr.org/>

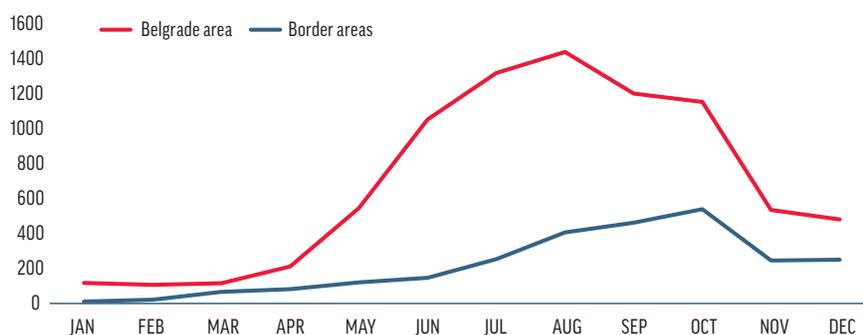
20 UNHCR, Desperate Journeys, January-December 2018, [https://data2.unhcr.org/en/documents/download/67712#\\_ga=2.186617261.588054035.1557418235-1885394486.1557155396](https://data2.unhcr.org/en/documents/download/67712#_ga=2.186617261.588054035.1557418235-1885394486.1557155396)

### Previous country of transit



In the northern part of the border with Bosnia, Belgrade region and border areas, CRPC and HCIT observed almost 11,000 newly arrived persons. Most of such individuals identified on locations stated they entered Serbia through North Macedonia and Bulgaria. Following the visa liberalisation regime,<sup>21</sup> Iranian citizens entered Serbia via plane from Turkey and during the first three months of the year, were the second most numerous group among new arrivals within accommodation centres.<sup>22</sup> Those who intended irregular border crossing, usually tended to travel north, to Croatia, Hungary and Romania, rather than to Bosnia in the first six months of 2018. During the second part of the year, observed groups often trav-

### Monthly distribution per location



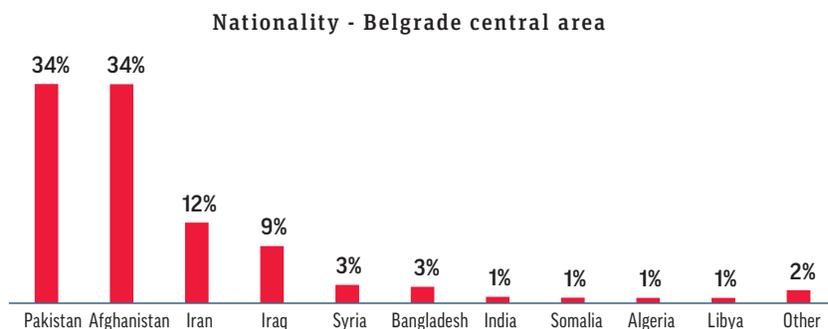
<sup>21</sup> Serbia abolished visas for Iranian citizens in September 2017 (<http://www.mfa.gov.rs/sr/index.php/konzularne-vesti/124-2013-12-02-15-07-40/18539-2017-08-30-10-55-15?lang=lat>), while they were reintroduced in October 2018 (UNHCR Serbia Update 15-28 Oct 2018 - <https://data2.unhcr.org/en/documents/details/66574>).

<sup>22</sup> Serbia Inter-Agency Operational Update January-March 2018, available at: <https://data2.unhcr.org/en/documents/download/63531>

elled directly from Nikola Tesla Airport in Belgrade to the north and west border, bypassing central areas of the capital. In border areas, they were most identified in Sid, Loznica and Subotica and in Kikinda.

Throughout the year, HCIT observed a total of 2,603 new arrivals in border areas, compared to 8,283 persons observed by CRPC in the capital. Newly arrived individuals in Belgrade mostly originated from Pakistan and Afghanistan, while exit points showed more diversity in national structure, also indicating the perception of Serbia as a transit country.

Additionally, national diversity of observed new arrivals stretched to more than 30 countries in Belgrade and in border areas – including persons from e.g. Sri Lanka, Nepal, Ghana, Yemen, Somalia, Cameroon but also from Myanmar – Rohingya ethnicity and others.



Gender and age structure follow the trend from previous year. On both locations combined, most of the population were adult men (85%), citizens of Afghanistan and Iran. Every 11<sup>th</sup> new arrival was a woman in Belgrade, and every 10<sup>th</sup> in border areas.

In comparison to 2017, refugee and migrant population was more sedentary, spending longer periods of time at one location. The majority of those identified in Belgrade had travelled for more than a year to their destination (19%), spending some time in Greece and Turkey before reaching Serbia. Among them, most were nationals of Afghanistan (6%), Pakistan (5%), and Iraq (2%). Others had spent from one to three months on the route (15% respectively) – predominantly Afghans (13%), Pakistanis (10%) and Iraqis (3%). Citizens of Iran travelled more quickly than other groups, spending from 0-7 days in travel – representing a total 91% of all Belgrade arrivals by air.

Most of the newly arrived individuals stated they were fleeing harm (36%) and armed conflict in their countries of origin (16%), which was often entwined with a search for better life opportunities (36%).<sup>23</sup> When asked about future strategies, the majority of interviewed new arrivals expressed a desire to continue their journey (more than 60%), mostly to France (23%), Germany (21%) and Italy (19%). However, almost a quarter of indecisive respondents was observed, without a clear future strategy developed – a total of 17% of the population couldn't answer the question about their future journey destination but didn't see Serbia as their final destination, followed by 7% of those who refused to provide any answer.

### Case No. 1:

#### New arrival from Myanmar, September 2018, Belgrade

CRPC was approached by five men from Myanmar. One of them shared his story:

“My father and mother stayed behind. My youngest sister (16) was killed by Myanmar Armed Forces the year before. I don't know where the rest of the family is. I lost every contact with them. I don't know if they are still alive.

My people were deprived of many rights in Myanmar. We could not go to cities, study and receive medical services. If we got caught in a city by the police, they would apprehend us and expel us, because our documents state that we are not citizens of Myanmar. Also, we could not get a passport.

The first wave of violence started in 2016. We fled Myanmar and when the situation back home calmed down, we returned. At the end of summer of 2017 violence continued, but at a much larger scale. We were prosecuted and killed by the Myanmar army. Some people were even beheaded. There was a lot of sexual violence, since men and women were separated by the army that took them to different locations. Our homes were destroyed as well. We fled to different countries, India, Bangladesh, Thailand and even to Indonesia and Malaysia by boats, with very little food and water.

I went to India. I travelled on foot across Pakistan, Iran, Turkey, Greece and North Macedonia. We were supported mainly by the generosity of mosque visitors. I left Turkey because I think that it is unsafe there. I would like to stay in Serbia, if I could live safely here”.

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<sup>23</sup> Multiple answers included.

**Case No. 2:****T.T, new arrival from Afghanistan, winter 2018, Belgrade**

“I was born in Kabul, where I finished school and afterwards, I started working as a singer. That’s how I met my girlfriend with whom I was in a relationship for the next four years. When my girlfriend got pregnant, my mother went to my girlfriend’s house to arrange a marriage. Since my girlfriend was from a conservative family, we did not mention her pregnancy. Her family refused the marriage, so I and my girlfriend decided to run away. We left for Iran but were immediately returned to Afghanistan by the Iranian police. We tried again and ended up in Turkey. After a week we were returned to Iran and then once again to Afghanistan, where we were handed over to the Afghan police. The police returned my girlfriend to her family and as I heard from some people, she was killed for disgracing the family by her brothers while in the third month of pregnancy.

In fear of her family’s vendetta I started hiding with some relatives. My late girlfriend’s family members came to our home several times and asked where I was. They threatened my parents and said they would kill me once they found me. My father told me to leave Afghanistan immediately. I went to Iran and then to Turkey from where I went to Greece. I spent six months working on the beaches in Greece. After summer was over, I continued the journey and came to Serbia”.

**Case No. 3:****Kurdish Woman travelling with her son, spring 2018, Belgrade**

“ISIS occupied my hometown; my house was bombed, and I had to run away from there with my eight-year-old son. We went to Turkey, but I returned to Iraq after I found out my husband had died. I spent the next six months in Baghdad and returned to Turkey after this. Finally, with the money I earned working in Turkey and Iraq as a hairdresser, I found a smuggler and we arrived in Serbia. I had some problems with this smuggler since he started to harass me at one point. I managed to defend myself, but he took all my documents and money. I would like to reach Germany where my father and brother are”.

# Unaccompanied and separated children in 2018

The number of children on move, worldwide is still on the rise. In EU, in 2018, 19,700 asylum seekers applying for international protection in the Member States of the European Union (EU) were considered to be unaccompanied minors.<sup>24</sup> Majority were Afghans (3,200) and Eritreans (1,960). Being underage, separated from parents or guardians and fleeing their country of origin, often due to a serious life-threatening situation and persecution, forced to travel within criminal smuggling networks, without valid personal documents, make unaccompanied minors an especially vulnerable group and legally almost “invisible” children on an extremely dangerous journey. They travel for thousands of kilometres and are exposed to greater risk of human trafficking, sexual exploitation and abuse, military recruitment, child labour, and other forms of violence and mistreatment. The majority of UASC say that they expect to “study and work in the destination country” and they also report having worked in country of origin as well as on the route, usually in Turkey and Greece. Regardless of their expectations and plans, unaccompanied and separated children need appropriate care, protection and adequate approach from professionals who should be additionally sensitised and trained for work with those children.

The United Nations Committee for the Rights of the Child (UNCRC)<sup>25</sup> defines unaccompanied and separated children (UASC) as:

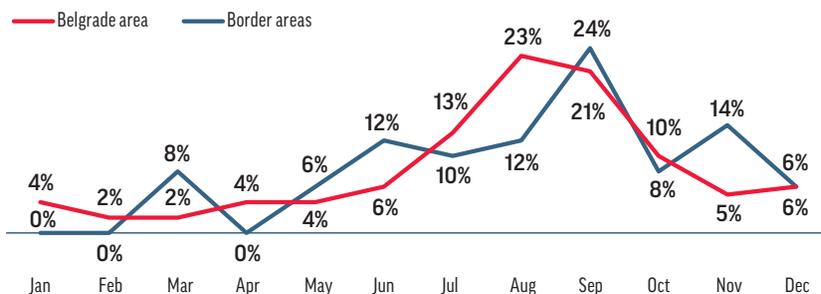
- 1. Unaccompanied children** (also called unaccompanied minors) are children, as defined in article 1 of the Convention, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.
- 2. Separated children are children**, as defined in article 1 of the Convention, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

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24 Eurostat News release, “Almost 20,000 unaccompanied minors among asylum seekers registered in the EU in 2018”, 73/2019 -26 April 2019, available at <https://ec.europa.eu/eurostat/documents/2995521/9751525/3-26042019-BP-EN.pdf/291c8e87-45b5-4108-920d-7d702c1d6990>

25 General comment no. 6 “Treatment of unaccompanied and separated children outside their country of origin” UN Committee for the Rights of the Child, Thirty-ninth session 17 May – 3 June 2005, <https://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>. For further reference, see: International Committee of the Red Cross, Inter-agency Guiding Principles on Unaccompanied and separated children, available at [https://www.unicef.org/protection/IAG\\_UASCs.pdf](https://www.unicef.org/protection/IAG_UASCs.pdf)

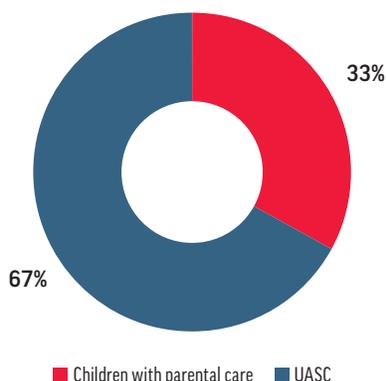
### Identification of UASC per month



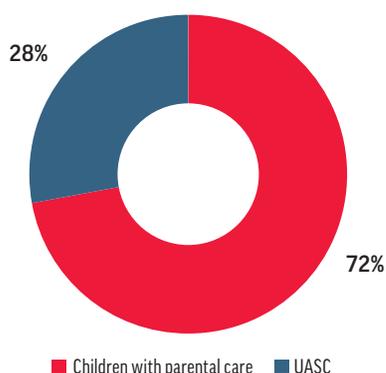
The new Law on Asylum and Temporary Protection of the Republic of Serbia<sup>26</sup> defines unaccompanied and separated children in the same manner.

During 2018, more than 2,800 UASC were identified in the Republic of Serbia, according to UNHCR.<sup>27</sup> As in the previous years, quick and efficient identification and support to UASC remained one of the core activities, both in Belgrade and in border areas. Throughout 2018, CRPC assisted and supported more than 2,000 unaccompanied and separated children, while HCIT worked with more than 400 UASC in border areas, who were mostly pushed-back from neighbouring countries after they had failed to continue their journey and leave Serbia.

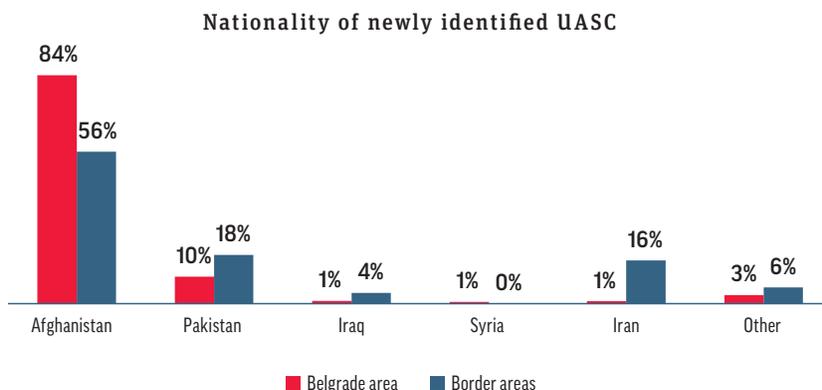
#### Children identified in Belgrade



#### Children identified in border areas



<sup>26</sup> Law on Asylum and Temporary Protection (Official Gazette RS, No. 24/2018) Article 2, paragraph 14 and 15  
<sup>27</sup> UNHCR, Quantitative Snapshot of the UNHCR Serbia 2018 Programme, February 2019, <https://reliefweb.int/sites/reliefweb.int/files/resources/67961.pdf>



CRPC supported 2,047 newly arrived UASC, mainly boys, during 2018, which makes two thirds of all identified newly arrived children during the year. On the contrary, in border areas, HCIT identified only 60 newly arrived UASC which clearly indicates that the vast majority of them travelled first to Belgrade, due to numerous reasons – access to different service providers, registration, accommodation, but also to connect with smugglers.

Most of newly arrived UASC identified in Belgrade and border areas originated from Afghanistan (84%) and Pakistan (10%) and then from Iraq, Syria, Iran (1% each) and other countries such as Sri Lanka, Bangladesh, Morocco, Algeria, Somalia, Libya etc. The youngest UASC identified was an eight-year-old boy from Afghanistan while 95% of the UASC were between 14 and 17 years of age. Throughout the year, visa liberation agreement regime for Iranian citizens, influenced identification of UASC from this country as well. Iranian unaccompanied and separated children were more visible in border areas, trying to reach Croatia, near Sid area, while groups of Kurdish UASC from Iraq usually travelled toward Romanian border and were identified in the area of Kikinda Municipality.

With a significant increase of UASC arriving to Serbia, the child protection system was burdened and faced with new challenges. Safety issues that UASC were facing, lack of appropriate accommodation capacities, insufficient transport to designated centres and mobility of outreach social workers, adequate coordination between organisations and institutions that were working with UASC, were once again identified as main problems. The focus of this chapter will be on the most pressing issues and problems that UASC faced throughout 2018.

It is safe to presume that during the year a certain number of children remained under-reported and “under the radar” of service providers, using the assistance of

smugglers in their attempts to enter and leave Serbia.<sup>28</sup> On the other hand the number of observed newly arrived UASC in Belgrade during July, August and September 2018 exceeded the number of total UASC identified during the whole of 2017.

Difficult identification of girls travelling without parents or guardians was a particular issue in 2018 as well. Throughout the year, CRPC identified only 10 girls in Belgrade while 5 were identified in border areas by HCIT. It's even more challenging to identify separated girls, that are presumably travelling with other families, relatives, caregivers or persons who pretend to be related to them in order to cross borders more easily. Due to specific family and cultural traditions, they rarely ask for any help and assistance, even if it is needed, as they are usually accompanied by older group members or not present during the interview and therefore unable to access service providers directly. Since the identification of girl UASC is so particularly difficult, we can presume they usually travel with other families or persons who pretend to be related to them in order to cross borders more easily, so we can presume that more female UASC passed through the Serbian territory during the year than observed. On the local level, procedures developed in previous years encountered new challenges at the very beginning of 2018. In winter months, the Ministry of Labour, Employment, Veteran and Social Affairs' (MoLEVSA) Outreach Social Workers were not operational, which created a gap in the established referral system on a local level, best interest determination procedure of newly arrived UASC and quick access to asylum and accommodation. During January, only one outreach social worker was covering Belgrade central area. Starting from February, outreach social workers were not present at all, so organizations working in Belgrade central area found themselves in a difficult situation until spring when newly recruited outreach social workers were dispatched to Belgrade and some border areas.

Furthermore, due to limited capacities of local police stations and limited number of asylum registrations that can be processed on a daily basis, it was decided to prioritize younger and most vulnerable UASC. Outreach social workers would choose a group to be registered during that day, often choosing the youngest UASC or those with specific needs first, so larger groups of UASC were forced to wait for registration, sometimes for days. As a result, many of UASC gave up waiting and decided to try and find private accommodation, often in irregular shelters, private houses or crossing the border irregularly, often staying invisible for further assistance and protection.

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<sup>28</sup> A total of 700 UASC who expressed intention to apply for asylum were recorded in Serbia, according to Asylum Office statistics in 2018.

In some of the centres, child protection capacities were supported with guardians. By the end of June, 90% of children staying in government-run facilities were appointed with a guardian.<sup>29</sup> This percentage dropped to 50% during the period July – September because of the increased numbers of newly arrived UASC and the guardians were appointed with larger number of beneficiaries under their care. Although such a system provided support through an individualised approach to the care and protection of UASC children,<sup>30</sup> organized relocations of minors from Obrenovac RTC to Krnjaca AC and from Krnjaca to Sjenica AC later in the year (after Sjenica became the designated centre for UASC) challenged the system most notably in terms of follow-up of identified UASC. On the other hand, an increased fluctuation of UASC in accommodation centres, influenced provision of services and protection on a local level.<sup>31</sup>

Another issue occurred as a result of UASC referral to Sjenica AC. Starting from October 2018, Krnjaca AC was getting overcrowded, so authorities began sending UASC older than 14 to Sjenica AC. Many children refused this accommodation and left Belgrade attempting another irregular border crossing. For example, almost all UASC that HCIT identified in border areas, especially in Sid, were previously accommodated in Krnjaca AC, but refused accommodation in Sjenica. As it can be seen in the graph representing monthly statistics of identified UASC in border areas, following relocation to Sjenica AC in October, newly arrived UASC continued toward borders in larger numbers, often avoiding Belgrade in an attempt to bypass identification and referral to Sjenica.

Moreover, in order to avoid accommodation in remote Sjenica AC and trying to get accommodated in RTC Obrenovac near Belgrade or centres closer to borders, UASC started to claim they were adults. In addition, they also claimed to be members of random groups they met in Belgrade, and that they did not want to be separated. Other UASC spent some time in Sjenica AC and then returned to Belgrade, often presenting themselves younger than their actual age or with another personal name, in attempt to enter Krnjaca AC again.

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29 UNHCR Inter-Agency Operational Updates, January-December 2018, <https://data2.unhcr.org/>. In cooperation with MoLEVSA and NGO IDEAS, UNHCR started a guardianship project in Belgrade (BCHR, Right to Asylum in the Republic of Serbia 2018, <http://azil.rs/en/wp-content/uploads/2019/02/Right-to-Asylum-2018.pdf>)

30 UNHCR Inter-Agency Operational Update – Serbia October-December 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/67789%20%281%29.pdf>

31 For example, only 10% of secondary school children finished classes during 2017/18 schoolyear – UNHCR Inter-Agency Operational update April-June 2018, <https://data2.unhcr.org/>

While capacities of local social work centres were strengthened with different projects throughout the year, practice observed on a daily level showed a necessity for continuous further support of the child protection system. For example, after extreme influx of UASC in summer of 2018 and pressure upon the local police station in Belgrade central area, UASC were provided with accommodation in Krnjaca AC without registration papers. Furthermore, regarding the practice of the local CSW in border areas (mostly in Sid) it was observed that outreach social workers upon phone call from HCIT field teams were mostly giving advice to identified UASC to immediately return to their designated centres. Regarding the registration in PS Sid, in all cases that were referred by HCIT, a social worker was present as a temporary guardian during the asylum registration.

It is important to highlight that, for the first time in 10 years since the adoption of the first Law on Asylum in Serbia, one unaccompanied child, a girl from Nigeria, was granted asylum in the Republic of Serbia, in December 2018.<sup>32</sup>

To conclude, in 2018 many UASC continued trying to leave Serbia for Western EU. Family pressure and the obligation to pay back the initial debt contracted for the travel to EU were two major factors that urged UASC to continue their journey. Even after they were informed about the risks and dangers of such attempts, UASC continued to expose themselves to extremely dangerous situations. It seems that the pressure which has been put on them by their families and smugglers to reach an EU country might be stronger than all their fears and provided counselling together.

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32 AIDA, Asylum Information Database, Country Report Serbia, 2018 Update, available at <https://www.asylumineurope.org/reports/country/serbia>

**Case No. 1:****Two sisters from Somalia, spring 2018, Belgrade**

Two sisters from Somalia (15 and 17 Y.O.) arrived at Belgrade, leaving their five siblings back home. “We are the youngest children in our family. Our family is big, and our parents do not have enough money to provide for all of us. So, they sent us to Europe. We are hoping to find a job in Europe, so we can send some money home. We travelled with various groups of people. Sometimes with our countryman, sometimes with people from other countries. We did not have problems during the journey, but we’ve heard many stories from people that did. We don’t have any specific country where we would like to go to. For now, we want to rest for a while”.

**Case No. 2:****A boy from Afghanistan (17 Y.O.), summer 2018, Belgrade**

“My father and one of my brothers were killed by the Taliban during one of their attacks so, my older brother shot two Taliban to take revenge and died on that occasion. I was left alone with my mother and youngest brother after this. My mother found out that the Taliban were looking for me to take revenge, so she sent me out of the country. I left Afghanistan and arrived in Greece through Iran and Turkey. From there I tried several times to reach Italy by boat but didn’t succeed. Then I decided to go to Serbia. I came a few days ago through Macedonia”.

# Collective expulsions of foreigners from neighbouring countries to Serbia 2018

## I Introduction

### **Article 4 of the Protocol Number 4 to the European Convention on Human Rights “Collective expulsion of aliens is prohibited”**

*Collective expulsion* is any measure of the competent authorities compelling aliens as a group to leave the country, except where such a measure is taken after and on a basis of a reasonable and objective examination of the particular cases of each individual alien of the group!<sup>33</sup> Tracing and collecting evidence of collective expulsions and documenting practices of border guards across EU countries, in the overall atmosphere of raising populist movements and harsh migration polices is crucial, from at least two standpoints. First of all, it is a violation of international law and international human rights law. Persons are being pushed-back outside the scope of formal Readmission Agreements, without formal expulsion orders that refugees and potential asylum seekers can challenge and appeal against, while individual needs were not assessed and examined, including their additional vulnerabilities, especially in the case of UASC, potential victims of torture, trafficking, etc. Secondly, it is directly linked to fair and efficient access to territory and hence to asylum procedure for all those fleeing persecution in their countries of origin based on different grounds. Right to seek refuge and protection is guaranteed by the Universal Declaration of Human Rights<sup>34</sup> and it is an individual right declared for all races and nationalities. Only after the final decision is made, in all prescribed instances, can one be denied access to international protection.

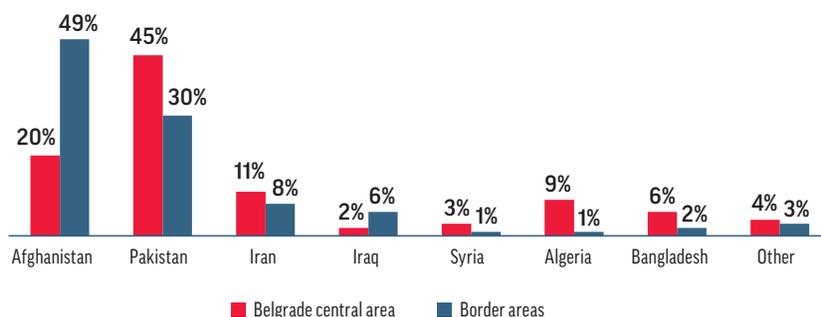
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33 European Court of Human Rights, “Factsheet-Collective expulsions of Aliens,” September 2018, available at [http://www.echr.coe.int/Documents/FS\\_Collective\\_expulsions\\_ENG.pdf](http://www.echr.coe.int/Documents/FS_Collective_expulsions_ENG.pdf)

34 Universal Declaration of Human Rights, Article 14, available at: <https://www.un.org/en/universal-declaration-human-rights/>

In this paper, the term “push-back” will be used as a synonym for collective expulsions of foreign nationals from neighbouring countries to Serbia, more precisely for removal of foreigners that irregularly entered the territory of EU member states and Bosnia and Herzegovina and were returned to Serbia immediately, or within a couple of hours, unlawfully, outside of the official Readmission Procedure, prescribed by the Readmission Agreement, signed between Republic of Serbia and EU Member States<sup>35</sup> and bilateral agreements with countries in the region<sup>36</sup> and despite the fact that the majority asked for asylum in those EU member states.

Nationality of persons pushed-back from neighbouring countries



Throughout 2018, HCIT and CRPC documented a total of 999 incidents involving 10,029 foreign nationals that were reportedly unlawfully expelled from Hungary, Croatia, Romania, but also from Bosnia. The majority of push-back incidents were documented in border areas by HCIT field teams (918 incidents involving 9,076 persons).<sup>37</sup>

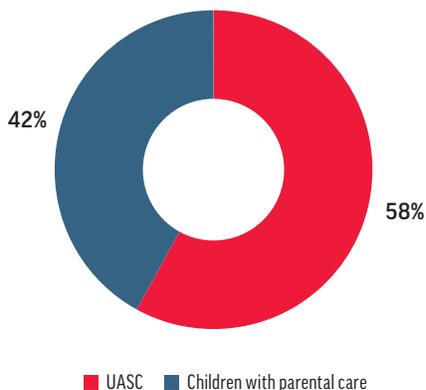
When it comes to the observed general smuggling patterns and routes across Serbia, trends remained pretty much the same throughout the year. Single males and unaccompanied minors have been crossing borders mostly in larger groups. According to persons who have been sleeping rough and were trying to cross the border with Hungary and Croatia irregularly, smuggling networks were accessible mostly in Belgrade and consisted mainly of Afghan nationals and domicile population. Reportedly, the initial negotiations began at the so-called “Afghan Park” in

35 Law on the Ratification of the Agreement between the Republic of Serbia and the European Union on the readmission of the persons who are staying unlawfully (*Official Gazette of the Republic of Serbia - International Treaties*, No. 103/2007)

36 Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Council of Ministers of Bosnia and Herzegovina on the surrender and acceptance of a person whose entry and stay is illegal, (*Official Gazette RS - International Treaties*, No. 13/2013)

37 It is likely that one person tried to cross the border irregularly more than once and hence was pushed-back several times.

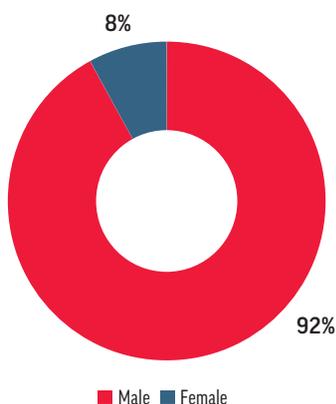
### Children pushed back from neighbouring countries



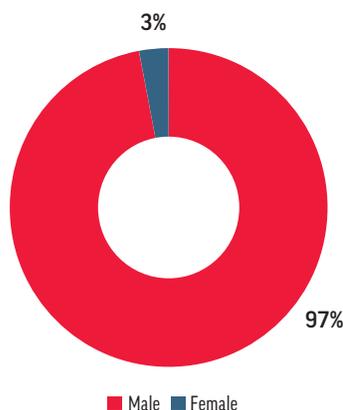
Belgrade,<sup>38</sup> mostly with smugglers from Afghanistan. However, in the border areas (near Sombor, Loznica, Horgos etc.) often local smugglers would take over the facilitation of the actual irregular border crossing. For example, in Sombor and Apatin area, as well as in Loznica, locals were the ones that were providing refugees and migrants with river boats for crossing into Croatia and Bosnia.

According to HCIT and CRPC data, the majority of the pushed-back population were nationals of Afghanistan 46%. They were followed by Pakistanis 31%, Iranians 8% and Iraqis 5%. Other 10% were nationals of Libya, Syria, Morocco, Algeria, Tunisia, Somalia, Bangladesh, etc. Also 407 UASC were reportedly pushed-back

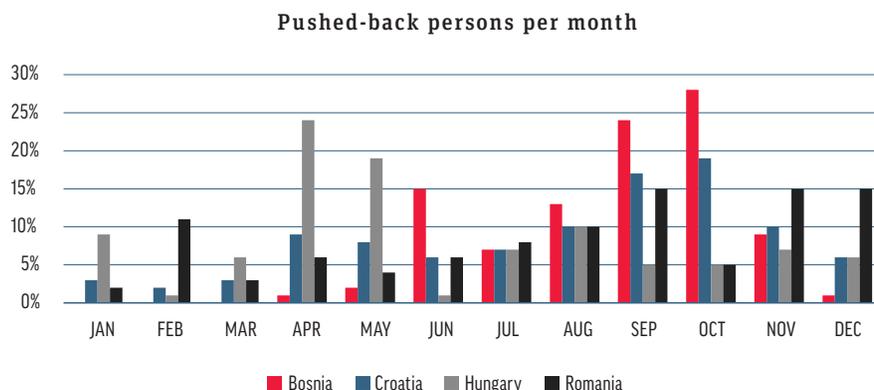
Gender structure of pushed-back persons, Belgrade



Gender structure of pushed-back persons, border areas

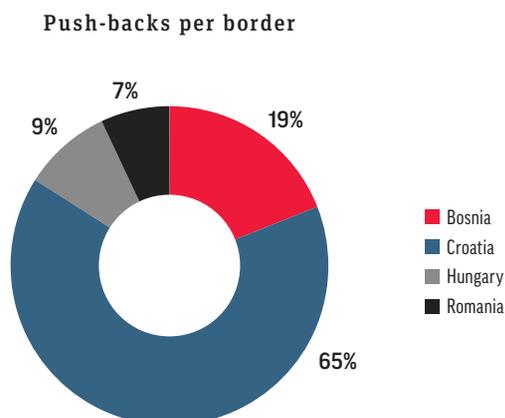


<sup>38</sup> Luka Celovic Park, which is colloquially known as Afghan Park between refugees and migrants. The name stayed after 2015, when this park was used as a camping spot for a great number of Afghans.



from neighbouring countries to Serbia in 2018. Majority of them originated from Afghanistan (78%).

When it comes to female population that was pushed-back, majority were women from Iran (33%) and from Afghanistan (31%). Almost all of them travelled with their families.



Peak of the push-backs was observed in August, September and October, which was in accordance with the biggest influx of newly identified person likely in need of international protection in Serbia. More than 60% of all those that were pushed-back reported they were denied access to asylum procedure, not informed about their rights, not provided with an interpreter and not given access to legal aid etc. In addition, theft and extortion was reported by more than 20% of involved individuals. Also, more than 15% of refugees and migrants pushed-back from neighbouring countries reported physical abuse during the push-back.

## II Croatia

The majority of foreign nationals who were pushed-back into Serbia came from the direction of Croatia – 6,519 persons in 562 documented incidents, making up more than 65% of the total push-backed population. Furthermore, 69% of persons pushed-back from Croatia reported that they had been denied the opportunity to seek asylum, 16% reported being subjected to physical abuse while 16% reported theft or extortion.



Group of Afghan men pushed back from Croatia, August 2018. Photo: HCIT

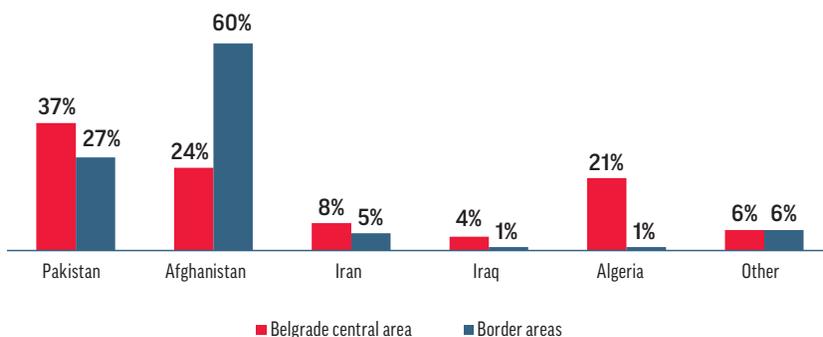
Even though Croatian officials continuously argued that they were “respecting all elements of border, humanitarian and international law”,<sup>39</sup> and that Croatian border guards were not mistreating refugees and potential asylum seekers, on a daily basis, detailed testimonies were collected from refugees and migrants who were denied access to territory and to asylum procedure after crossing into Croatian territory. Due to continuous numerous reports from both national and international organizations, European Commissioner for Human rights addressed directly to Croatian Prime Minister on September 20, 2018. “The Croatian authorities should initiate and carry out prompt, effective and independent investigations into all recorded cases of collective expulsions and of allegations of violence against

39 N1, “Plenković: Hrvatska štiti granicu od nezakonitih ulazaka “24.10.2018, available at <http://rs.n1info.com/Region/a430462/Plenkovic-Hrvatska-stiti-granicu-od-nezakonitih-ulazaka.html>

migrants, as well as other alleged crimes such as theft, and take all necessary measures to end such practices and prevent their recurrence”, said the Commissioner.<sup>40</sup>

When it comes to UASC, a vast majority of reported UASC push-backs were from Croatia as well – 303 of them. Some of them spent only a few days in Serbia and immediately set off to border areas, but also many were previously accommodated in Krnjaca AC, Sjenica AC or similar. During 2018, on average, some 30-40 UASC were identified on a monthly basis by HCIT teams in border areas, especially during spring and summer. They were arriving in mostly mixed groups, with unrelated older men or with boys of a similar age. Even very young boys, 11 and 12 years old were travelling alone and were sometimes found locked down in sealed cargo trucks on actual border crossings, mostly with Croatia (Batrovci border crossing). Many UASC reported they were verbally and physically mistreated during different push-back incidents, while individual needs were not assessed, nor their vulnerability was taken into consideration.<sup>41</sup> Also, some UASC were subjected to “*chain push-back*”, for example from Slovenia to Croatia and then to Serbia. HCIT documented a case of 5 UASC that were subjected to this practice.

Nationality of persons pushed-back from Croatia



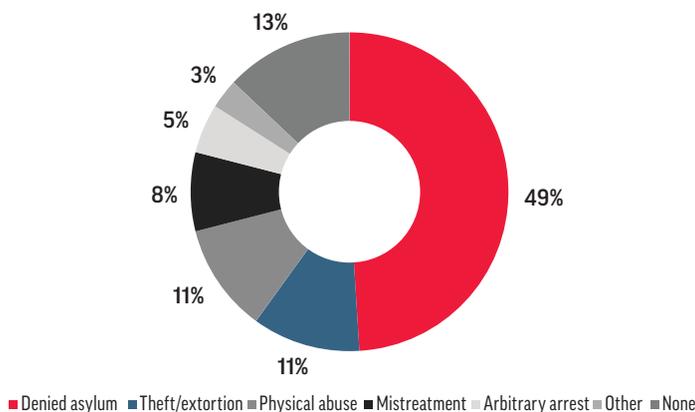
In addition, another trend related to Croatian push-backs was identified. Almost 6% of observed persons involved in the push-backs to Serbia entered Croatia not through Serbian but Bosnian territory. This practice was noted throughout 2018 and included both adults and unaccompanied and separated children.

<sup>40</sup> Council of Europe, Commissioner for Human Rights, “Commissioner calls on Croatia to investigate allegations of collective expulsions of migrants and of violence by law enforcement officers” <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-croatia-to-investigate-allegations-of-collective-expulsions-of-migrants-and-of-violence-by-law-enforcement-officers>

<sup>41</sup> Those actions were clearly contrary to Article 10 of „EU Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals” that prescribes removal of UASC available at <https://www.refworld.org/docid/496c641098.html>

As in 2017, the main gathering location on the route to Croatia remained the abandoned and devastated “Grafosrem” factory in Sid. This informal place of gathering was used by those that were sleeping rough and continuously attempting to cross the border. On average, some 100-150 refugees and migrants were regularly present there, mostly during spring and summer. Different independent volunteers were distributing food and NFIs to rough sleepers there. In case refugees and migrants needed medical assistance, volunteers very often reached out to HCIT staff in order to facilitate their access to Primary Health Care Centre in Sid. Aside from medical problems, many had injuries sustained during violent push-backs and needed urgent medical attention.

Types of mistreatment in Croatian push-backs



UACS were regularly observed at this location as well and mostly after they were pushed-back from Croatia. They usually remained in extremely dire conditions of “Grafosrem” for a couple of days, before they went back to their designated asylum or transit centres. As in the previous year, they were often very violently pushed-back and a great many of them were exposed to the cruelty of the smugglers and criminal groups that were present in the vicinity of Croatian border. During 2018, some serious incidents were documented as well. The most disturbing was the one where two Afghan nationals were shot dead in a village near the Ruma Municipality on August 1. Unofficially, it was related to smuggling of migrants and refugees.<sup>42</sup>

Three key locations on the border with Croatia were mostly used for onward

42 Blic, 02.08.2018, <https://www.blic.rs/vesti/hronika/misteriozno-ubistvo-migranata-mestani-ih-cesto-vidali-sa-vodom-pricali-srpski-ali/jdd2sbm>

movements. They were all sporadically active through 2018:

- ▶ Official border crossings Batrovci/Bajakovo and Sid/Tovarnik – where refugees and migrants were hiding in trucks, cars and other cargo vehicles.
- ▶ Border area around Batrovci village – that was usually crossed on foot and walking through the wooded area of the nearby National park.
- ▶ Border area around Ilinci village that was also crossed on foot and walking through the wooded area.

The population that was crossing irregularly was mostly single males and UASCs. Many of them were using GPS and the ones that were in Sid for longer periods of time, already knew the area extremely well, so they were able to navigate more easily. There was also a trend where mostly Iranians and other nationalities were trying to cross the border at official check points using counterfeit EU passport or forged EU visas stamped into existing original passports. Allegedly, the price of the “new passport” went up to 5,000 EUR and a price for an EU visa ranged approximately from 700 to 1,000 EUR per person.



Iraqi family returning from the border area to Sid after a push-back, February 2018,  
Photo: HCIT

## 18 Afghans, 16 adult men and 2 UASC expelled from Croatia, November 2018

The group managed to enter Croatia irregularly by using GPS. After seven days of walking and sleeping rough, they managed to reach Zagreb, the capital of Croatia. One police officer approached them and immediately called for a backup. Soon after, one police van arrived, and all persons were taken to a police station. There, they were detained, fingerprinted and photographed. Afterwards, police officers drove them to the border with Serbia and expelled them in the vicinity of the city of Sid.

### III Hungary

Movements towards Hungarian and Romanian areas showed patterns similar to 2017. Both CRPC and HCIT protection teams collected testimonies of 185 push-back incidents from Hungary relating to 951 persons.

Compared to two previous years, 2018 brought drastically lower number of push-back incidents from Hungary to Serbia, with more than 900 foreign nationals who were unlawfully expelled from Hungary and ordered to go back to Serbia. Through an analysis of documented testimonies, two distinctive ways of entering Hungary were observed:

- ▶ *on foot*, crossing into Hungary through open fields, outside the official border crossing, using smugglers or going in a “game” on their own, cutting the wire fence or jumping over it,
- ▶ *hidden*, attempting to enter Hungary in train wagons, cargo trucks and even private vehicles at official border crossing point.

Among different practices observed throughout the year, a certain number of foreign nationals tried to enter Hungary hidden in train wagons or cargo trucks and they were usually discovered and apprehended right at the very border crossing point. Despite the fact that each country has a sovereign right to control entry of foreign nationals into its territory, basic international standards especially in the field of protection of fundamental human rights guaranteed by essential international conventions and treaties must be respected. For example, HCIT collected testimonies of foreign nationals that were taken to police stations in Hungary after being discovered and apprehended in the trucks or trains, where they were finger-

printed, photographed and ordered to sign documents in a language they didn't understand. They had no access to proper information, legal counsellor and moreover to interpretation in order to be able to understand the process they were subjected to, ability to seek international protection, explain their case and situation or to challenge the expulsion order. Moreover, they were not returned to Serbia under the rules of the Readmission Agreement, but simply pushed-back at one of the gates at the border fence, without the knowledge of Serbian border police about their removal from Hungarian to Serbian territory.

Article 4 of the Protocol 4 of the ECHR requires an analysis of each individual's situation and their protection needs. In addition, it has to be highlighted that European Court for Human Rights found that “...national authorities' have obligation to create an environment to the applicant for indicating his/her protection needs (i.e. individual interview, linguistic and information support)” and that “thorough analysis of each applicant's situation had to be undertaken in conformity with Article 13”.<sup>43</sup>

Several main characteristics of border guards' practice during push-back incidents from Hungary were identified throughout the year:

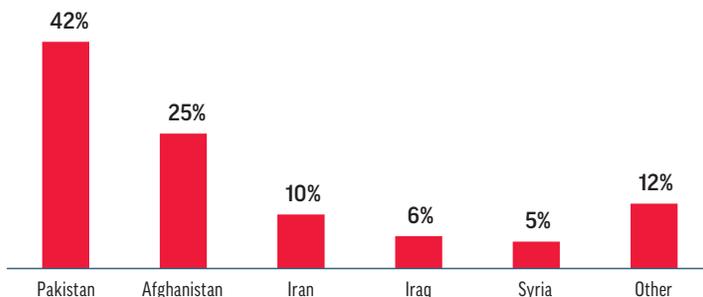
- ▶ Physical violence – beatings with nightsticks, punching and kicking including UASCs
- ▶ Allegations of confiscation of mobile phones and cash
- ▶ Not facilitating access to the asylum procedure and other services with comments “this is not possible “as referring persons to lengthy admission procedure in Serbia (outside Hungary)
- ▶ Lack of access to information provided in their native language
- ▶ In police stations, denied access to interpreter, legal aid and proper information
- ▶ Verbal abuse
- ▶ Removals outside the Readmission Agreement, on one of the gates at the border fence, mostly during the night or in the early morning hours.

Also, besides these so-called “push-backs” of foreign nationals that actually tried to enter Hungary from Serbia, HCIT and CRPC continued documenting cases of expulsion of refugees and migrants that had never previously passed through Serbia. In total, there were 68 individuals that found themselves in Serbia even

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43 Sharifi and Others v. Italy and Greece (no. 16643/09) [Article 2, 3, 13, Article 4 Protocol 4], October 21, 2014

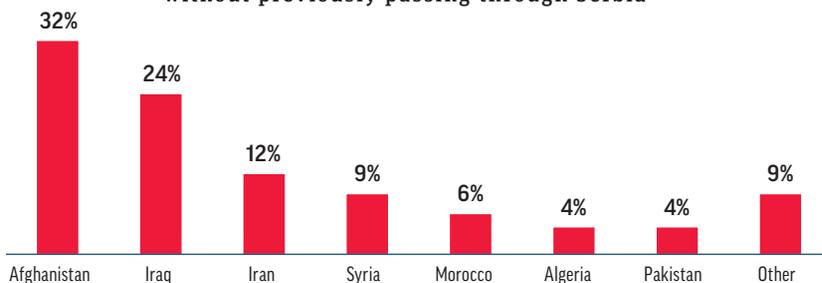
### Nationality of persons pushed - back from Hungary



though they had never transited through Serbia on their way to Hungary. The majority had entered Hungary either from Romania or from Ukraine, but some of them were apprehended at the Budapest airport. More details are provided in the following chart.

In addition, HCIT continued to monitor the admission process and subsequent-

### Nationality of persons pushed - back from Hungary without previously passing through Serbia



ly the returning of asylum seekers from the Hungarian transit zone after their procedures were terminated (rejected, dismissed etc). A total of 45 asylum seekers were returned to Serbia from the Hungarian transit zone, after the rejection of their asylum request. Although the numbers were most likely higher than observed, this is the population that HCIT identified and interviewed upon their return.

**Case No. 2:****Three men from Iran expelled from Hungary, October 2018**

The group of three men from Iran crossed the border with Hungary at the beginning of October through a hole in the border fence near Horgos. They walked for about 12 hours through three villages until they reached a railway station and entered a train for Wien. However, they were caught during control and transported to the nearest police station where they spent about 8 hours. Reportedly, they were fingerprinted and photographed. Also, they signed some documents written in a language they did not understand. They requested asylum, however the police told them that they had to go back to Serbia. There was no interpreter for Farsi. All three of them were transported to the border and expelled to Serbia near Horgos early next morning.

**IV Romania**

Onward movements towards the Romanian border were sporadically documented in 2018. Even though the practice hadn't ceased entirely, the number of refugees and migrants that were trying to use this potential channel to EU was significantly smaller compared to other routes. HCIT and CRPC collected 92 testimonies from Romania relating 706 persons.

Some very specific characteristics were observed throughout the year. Namely, mostly Iraqi families (Kurds in majority) were trying to leave Serbia and enter Romania. In total 706 persons were observed in push-backs and out of that number 53% were Iraqis, 16% Iranians, 14% Afghans, 5% Syrians, 3% Pakistanis etc. Compared to other border areas, few UASC and single Afghan and Pakistani men were observed, with more families observed with small children.

Families with small children were more prominent than in other locations. They were mostly arriving from direction of Belgrade and other locations, by bus to Kikinda. From there they would use local taxi drivers and head to border areas, attempting to cross on foot. Single men, including UASC, mostly Afghans and Pakistanis, were detected by Serbian police in areas very near the actual border crossings, hiding in large cargo trucks. The majority were apprehended and prosecuted before local misdemeanour courts – in Kikinda or in the Department of Misdemeanour Court in Kanjiza, depending on territorial jurisdiction.

The majority of persons reported that they had been intercepted and apprehended very near the border area – near Serbian villages Mokrin and Banatsko Veliko Selo. Furthermore, they also reported following patterns of behaviour:

- ▶ Few very violent incidents occurred including reported slapping and kicking, even while children were present;
- ▶ There was one reported extortion incident relating 2000 euros;
- ▶ After PoCs stated that they wanted to seek asylum in Romania, border guards denied that option, saying – “it is not possible”;
- ▶ Almost all PoCs reported that they were ordered to sit on the ground for many hours, despite harsh weather;
- ▶ Majority reported they were waiting to be referred to Serbian police (some form of “unofficial readmission” of cross border cooperation);
- ▶ No one was taken to nearest police station;
- ▶ No one was photographed nor fingerprinted;
- ▶ They were usually intercepted by big border patrols, mixed – both female and male officers;
- ▶ Also, there were reported cases when refugees and migrants entered Hungary from Romania and then were subsequently pushed to Serbia after apprehension by the Hungarian police.

### Case No. 3:

#### **Iraqi Kurdish family with two small children and a man from Afghanistan expelled from Romania, December 2018**

This group of Kurds from Iraq first went from Kikinda bus station towards Banatsko Veliko Selo village. Few taxi drivers drove them near an old military watchtower, some 2km from the Romanian border. After entering Romanian territory irregularly, they walked for three hours when the police spotted them. Reportedly, there were seven or eight Romanian police officers. The police had ordered them to sit on the ground. Allegedly two officers had kicked all men from the group and slapped them across their heads and faces. One man had visible injuries as his nose was bleeding. PoCs explained that they were held on the ground, even though it was snowing for two hours. They haven’t been photographed nor fingerprinted, but were expelled to Serbia soon after.

## V Bosnia and Herzegovina

Due to increased arrivals of refugees and migrants into Bosnia and Herzegovina in 2018 where more than 80% were detected entering from Serbia,<sup>44</sup> HCIT teams started with protection border monitoring in Loznica, a town at the Bosnian border, in early July 2018. This new activity was initiated by UNHCR, due to necessity of tracking and efficiently monitoring movements across Serbia to Bosnia and subsequently to document collective expulsions while assessing needs of most vulnerable ones, advocating for appropriate referral to asylum procedure. After multiple unsuccessful attempts to reach an EU country through Serbia directly, persons decided to move from Serbia to Bosnia and then to Croatia. Encountered individuals often explained this choice with presumption that the border between Bosnia and Croatia was not so heavily guarded as borders between Serbia and Croatia or Hungary. Increased influx of refugees and migrants through Bosnia subsequently, at one point, led to the fact that a certain number was denied access to Bosnian territory and pushed-back to Serbia.

Four distinctive manners of attempts at irregular border crossings were observed in 2018, focusing on the northern part of the Bosnian border:

- ▶ Refugees and migrants were using small river boats in order to try to enter Bosnia by crossing over the Drina river, mostly in the vicinity of Loznica Municipality, Mali Zvornik and Brasina village.
- ▶ Also, they were crossing on foot the railway bridge across Drina River in Brasina village, located some 15km south from Loznica.
- ▶ Hiding in cargo trains and crossing the railway bridge at Drina River in Brasina village.
- ▶ Using small boats and crossing over the Drina River near Jamena village, located at the triple border with Serbia, Croatia and Bosnia.
- ▶ Hiding in the cargo trucks that were heading to Sremska Raca, the official border crossing with Bosnia.

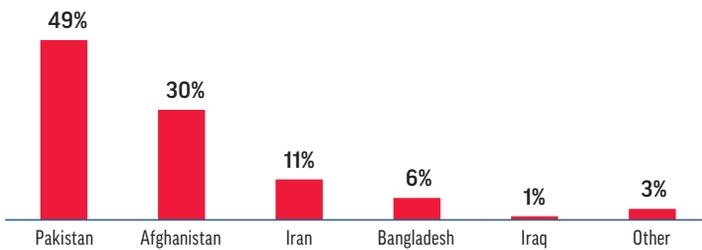
Throughout the year, HCIT and CRPC gathered 160 testimonies relating to 1,853 persons who were returned from Bosnia to Serbia after being collectively expelled from this former Yugoslav republic. Persons involved were mainly adult males and

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44 Vit, Michal "Effectively closed? Michael Vit on the state of migration along the Balkan route," April 11, 2019, available at <http://www.erstestiftung.org/en/effectively-closed/>

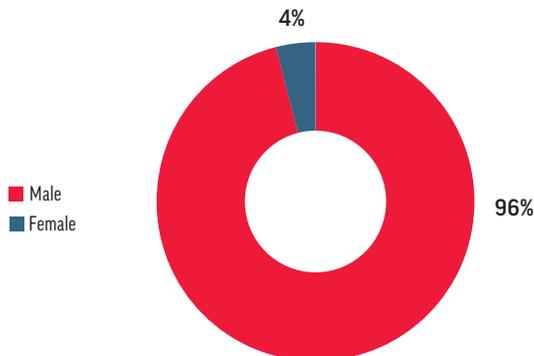
mainly originated from Pakistan (49%) or Afghanistan (30%). Throughout the year both CRPC and HCIT collected many testimonies of involved person who stated that they had been expelled from Bosnia only because they did not originate from an Arab country. More precisely, many of the involved persons stated that they crossed into Bosnia together with other refugees and migrants that originated from Arab countries but, while they were expelled, their Arab companions were allowed to enter Bosnia.

Nationality of persons pushed - back from Bosnia



During the entire year, HCIT field teams did not observe any bigger informal gathering place in Loznica nor in surrounding villages. Namely, refugees and migrants were mostly identified in the vicinity of Loznica main bus station. Almost all of them had arrived directly by bus from Belgrade and after they were pushed-back from Bosnia, they usually headed back to the capital. Only during few weeks of August and beginning of September, a larger group consisting mainly of Pakistani adult men and few UASC were sleeping rough very near the Loznica public cem-

Gender of persons pushed - back from Bosnia



etery.<sup>45</sup> Locals in Loznica opposed immediately and urged municipal representatives to react promptly and urged to relocate refugees and migrants.

Bosnian border guards and police officers were returning refugees and migrants mostly either by river boats or by land, sending them back across above mentioned railway bridge in village Brasina. During the peak of arrivals into Loznica (in late spring and entire summer of 2018) it was observed that local taxi drivers were providing services to refugees and migrants but also local population that was either only renting boats to the population or actively assisting them in crossing over the Drina River.

Cases of extreme physical mistreatment, similar to those we witnessed in 2017 and 2016, by Hungarian and Croatian border guards, luckily were not detected and recorded. According to the testimony of refugees and migrants, aside from 52% of those being denied access to territory and asylum procedure, some 49% reported damaging of personal property, mostly mobile phones and extortion of money.

Having in mind that more than 20,000 foreign nationals entered Bosnia in 2018 and that according to some reports,<sup>46</sup> more than 80% of all entries were from Serbia, without any doubt we can conclude that throughout 2018 the so-called Bosnian route was open and widely used.

#### Case No. 4:

### 24 men from Pakistan expelled from Bosnia and Herzegovina, April 2018 Testimony of B.L. from Pakistan

Mid-April B.L. with other eight men from Pakistan crossed into Bosnia in the morning. “We walked for about two to three hours when we were intercepted by two border police officers. They put us in a van, and after half an hour reached a police station. There, police officers asked us how we entered Bosnia, and did we have a smuggler. Afterwards, police took us to a closed-type centre in Sarajevo. We were fingerprinted and photographed there. Before letting us in the centre, police took away our money and phones. They took around 600 euros from me. I didn’t know how much money others had. A lot of other Pakistanis were also there, some for even three months. While we were in the centre, police gave us many documents to sign, but we couldn’t understand what was written there. Po-

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45 Srbija Danas, “Skandalozno ponašanje u Loznici: Migranti kampuju na groblju, vrše nuždu pored spomenika” 16.09.2018, available at <https://www.srbijadanas.com/vesti/drustvo/skandalozno-ponasanje-u-loznici-migranti-kampuju-na-groblju-vrse-nuzdu-pored-spomenika-video-2018-09-16>

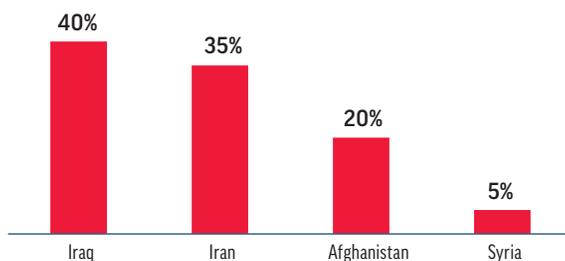
46 Vit, Michal “Effectively closed? Michael Vit on the state of migration along the Balkan route” April 11, 2019, <http://www.erstestiftung.org/en/effectively-closed/>

lice released us from the centre after 13 days. When we asked what happened with our belongings, two Bosnian police officers started to beat us with batons and to kick us with boots. After that, they told us: “Do you think that food and showers here were for free?” Then they ordered us to enter a van. The next thing we know, we were at the Serbian border near Loznica town to be handed over to Serbian police. We received Cancellation of Stay in the Republic of Serbia document and were released. We came to Belgrade where we would like to find somewhere to sleep”.

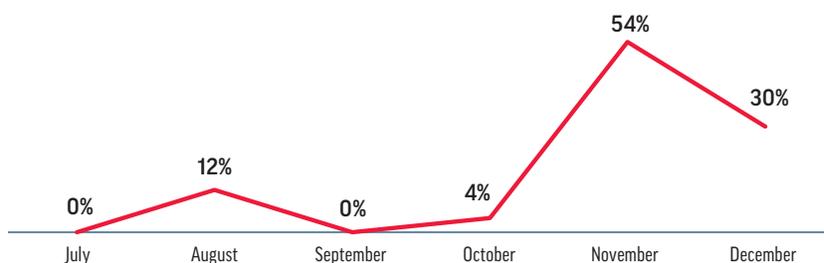
## Voluntary returns from Bosnia and Herzegovina to the Republic of Serbia

Having in mind that on one hand, the border between Croatia and Bosnia was heavily guarded and on the other hand that Bosnia was lacking accommodation capacity and was almost faced with a humanitarian crisis in 2018, many of those who crossed over from Serbia to Bosnia, decided to return to Serbia after months of unsuccessful attempts at continuing their journey to EU. Additionally, Bosnian rough terrain and harsh weather conditions, added to the already difficult situation of refugees and migrants.

Nationality of persons voluntarily returned from Bosnia



Voluntary returns from Bosnia to Serbia per month



CRPC began receiving reports from persons voluntarily returning from Bosnia in the beginning of summer 2018. A total of 14 reports involving 57 persons who voluntarily returned to Serbia from Bosnia were collected in Belgrade. A total of 39% of those persons were travelling with family members including young children. The rest were single males including 8 UASC from Iraq. According to such information, persons who voluntarily returned from Bosnia to Serbia mostly crossed the border near the town of Zvornik and proceeded afterwards, towards Belgrade. It is most likely that due to this, HCIT teams did not encounter any voluntary returnees from Bosnia throughout the year.

# Introduction of new migration and asylum laws in Serbia in 2018

## Access to asylum

During 2018, according to the official data of the Asylum Office, 8,436 foreigners expressed intention to seek asylum in Serbia, 7,507 males and 929 females. This includes 2,475 children and among that a staggering 700 unaccompanied children. However, only 327 official asylum requests were submitted before the Asylum Office. During the year, the Asylum Office granted 11 refugee protections and 14 subsidiary protection.<sup>47</sup> Beneficiaries of international protection in Serbia in 2018 were nationals of: Libya, Iran, Nigeria, Pakistan, Bangladesh, Somalia and Syria.

According to the data provided by the Ministry of Interior of the Republic of Serbia, the biggest number of certificates of expressed intention to seek asylum (registration papers) was issued in Belgrade, Sid and Pirot. Precisely, 3,941 certificates out of 8,436 were issued in Belgrade, which represents 47%. The biggest number of registration papers was issued during July and August (1,098), which is in accordance with the increased influx of newly arrived refugees and migrants observed during the summer months of 2018.

Aside from Belgrade, Sid Police Station and Pirot Police Department also issued a significant number of registration papers – 747 in Sid and 738 in Pirot. However, it is important to observe that these two municipalities were faced with totally different trends. Namely, the police station in Sid registered the highest number of potential asylum seekers during winter and spring – from January and until the end of May, 541 persons were issued with certificates of expressed intention to seek asylum. On the other hand, Pirot Police Department issued 481 registration papers only during November and December, while during the previous months, monthly average varied between 15 and 40. Furthermore, 108 foreigners expressed inten-

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47 Law on Asylum and Temporary Protection (Official Gazette RS, No. 24/2018) – Article 1, Paragraph 8: „Subsidiary protection shall be understood to mean a form of protection granted by the Republic of Serbia to a foreigner who would be, if returned to the country of his/her origin or habitual residence, subjected to serious harm, and who is unable or unwilling to avail himself/herself of the protection of that country“.  
Article 25, Paragraph 2: „Serious harm shall consist of the threat of death by penalty or execution, torture, inhuman or degrading treatment or punishment, as well as serious and individual threat to life by reason of indiscriminate violence in situations of international or internal armed conflict “.

tion to seek asylum at Nikola Tesla Airport in Belgrade (in September and October 79) and also, 20 foreigners expressed intention to seek asylum in the Shelter for Foreigners in Padinska Skela.

During 2018, HCIT provided counselling about asylum to 1,909 foreign nationals and assisted 150 directly at police stations during the registration procedure, mostly at the police station in Sid. Potential asylum seekers were advised about the asylum procedure, their rights and obligations but also on the further integration system. It was observed that frequently asked questions were mostly related to the length of the asylum procedure, access to the labour market, access to education for children but also the possibility of obtaining travel documents and available welfare support. HCIT and CRPC worked mostly with potential asylum seekers (persons that expressed only intention to seek asylum but had not yet submitted official request) but also with *prima facie* refugees that had not still formally applied for asylum in Serbia at the moment counselling.

Also, more than 450 potential asylum-seekers were referred from Subotica and Kikinda by HCIT to CRPC in order to be registered at the police station in Belgrade. CRPC staff would then escort them to the police station or to Miksaliste if registration was not possible on the same day. Despite numerous attempts, police stations in the north of the country (most notably Subotica Police Department) were referring foreign nationals that wanted to express intention to seek asylum to Belgrade for registration, which only put extra pressure on capacities of Belgrade Police station. Referral mechanism was well established between HCIT and CRPC, however, due to additional waiting periods and unnecessary travel expenses, it would be a significant improvement if access to registration were to be operational in every municipality in Serbia. Additionally, CRPC referred more than 3,061 persons to police for document issuance while interpretation during police interviews was provided for 55 persons.

Also, during the entire year 1,465 PoCs were successfully supported through referral to accommodation, while more than 400 of them were referred to transport providers that successfully transported them from Belgrade to their designated government-run centres. Furthermore, CRPC supported access to free legal aid and aided and referred more than 120 persons in need of this service, while 514 PoCs were aided in contact with municipalities, embassies etc.

## New legislation

New *Law on Asylum and Temporary Protection (Official Gazette RS, No. 24/2018)* was adopted in the National Assembly of Republic of Serbia in March 2018, and implantation began on June 3, 2018.

Some of the most significant changes that have been introduced by this Law are:<sup>48</sup>

- ▶ Certificate of expressed intention to seek asylum has been “replaced” with *Registration Certificate* for persons who expressed the intention to apply for the asylum. Basically, the purpose of this initial procedural step has not changed. Potential asylum seekers still have the obligation to go on their own to their designated Asylum centre or to another facility designated for the accommodation of potential applicants within the 72 hours deadline.
- ▶ Law introduced *new deadlines for submission of official asylum request*. Namely, potential asylum seeker has to submit an application for asylum within 15 days from the moment of registration. Officers of the Asylum Office should enable asylum seeker to undertake that action within the prescribed deadline. Additionally, Law introduces a new deadline, additional 8 days upon termination of the previous deadline of 15 days, where an asylum seeker has possibility to fill in the prescribed form and to send it directly to Asylum Office in Belgrade. From that moment on, the asylum procedure is considered to be launched (administrative procedure).
- ▶ Also, *the deadline for passing the decisions* in now, according to the new Law, limited to three months maximum and it can be extended to an additional three months in case a high number of asylum seekers submit applications simultaneously. Also, exceptionally, the deadline can be extended yet again, also for three months, in case that application can't be examined completely and in a proper manner.
- ▶ *The principle of the best interest of a child* has been introduced as well as additional procedural guarantees for unaccompanied and separated asylum-seeking children. All procedures where an applicant is an unaccompanied child have priority and unaccompanied children must be exempt from procedures at the border and transit areas as well as accelerated proceedings. Also, the definition of unaccompanied children was greatly improved

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<sup>48</sup> Due to complexity of the legal analysis, in this paper we will focus only on several key issues. This overview does not exhaust all the relevant changes that have been introduced by the new Law.

in comparison to the previous Law. Furthermore, in line with international documents, a clear distinction between unaccompanied and separated children has been made.

- ▶ *Jurisdiction of SCRM was extended.* In addition to their core mandate, (provision of shelter, food, clothes, etc.) according to the new Law, SCRM will have the vital role in the integration process of persons that were granted refugee or subsidiary protection as well as in the process of AVR.
- ▶ *Regarding the rejection of asylum application under the principle of a “safe third country,”* the new Law prescribes that each and every case, will be individually assessed, whether the state through which the asylum seeker has passed, is safe for him/her. In practice, this implies that automatic application of this principle is no longer possible, which was previously widely criticized by national and international organizations.
- ▶ Furthermore, the Law provides possibility for *subsequent asylum application* in case asylum seeker provides evidence, that circumstances for granting international protection have significantly changed, and also new evidence that was not examined in the previous procedure due to justified reasons. The subsequent asylum application can be submitted after the refusal of a claim has come into effect, or the discontinuation of the procedure because the applicant withdrew their application.

*Law on Foreigners* was also adopted in the National Assembly of Republic of Serbia in March 2018; however, it came into force in October. The Law introduced some important provisions, especially relevant for the mixed population that stayed in Serbia after 2016.

First of all, the Law envisages temporary residence on humanitarian grounds that can be granted to a foreigner, according to Article 61, in the case of:

- ▶ delay of forced removal of foreigners in accordance with Article 83 (A foreigner may not be forcibly removed to territory where he would be under threat of persecution on the grounds of his race, sex, sexual orientation or gender identity, religion, nationality, citizenship, membership of a particular social group or his political views). Basically, temporary residence on humanitarian grounds can be granted to a foreigner when he/she meets criteria for international protection and his/her removal needs to be delayed precisely due to the fact that he or she is a refugee.

- ▶ to a foreigner who is a victim of a serious criminal offence, including persons who have been involved in the action to enable irregular migration and who cooperate with the police and the judiciary, and his/her presence is necessary in the criminal proceedings or he/she is participating in an investigation as witness or plaintiff.
- ▶ to a minor foreigner who has been abandoned, who is a victim of organised crime or has for other reasons lost parental care or company.

Another important breakthrough is the obligation to adopt a by-law on *tolerated stay*. Namely, according to Article 124, paragraph 2: “The Government shall, at the proposal of the Minister of Interior, in case special circumstances are found related to the illegal presence of an increased number of foreign nationals on the territory of the Republic of Serbia, who cannot be returned to their country of origin because of the application of the non-refoulement principle, or who cannot leave the Republic of Serbia because of circumstances that do not depend on them, adopt an ordinance (by-law) regulating their tolerated presence on the territory of the Republic of Serbia, with limited time of implementation“.

After the massive influx of refugees and migrants in 2015 in Serbia and closure of the Balkan route in 2016, many found themselves in an irregular situation in Serbia, meaning that, since they had not officially applied for asylum, *their legal status remained unresolved*. In such situation, throughout entire 2016, 2017 and 2018, for many of them access to certain rights in Serbia, was to some extent complicated. Both institutes (humanitarian residence and tolerated stay) were introduced precisely to regulate residence and their rights and obligations while staying in Serbia.

# Practice of misdemeanour courts in AP Vojvodina

In accordance with the right to access information of public importance<sup>49</sup>, HCIT focused on the following misdemeanour courts in AP Vojvodina – Novi Sad, Subotica, Sombor, Zrenjanin, Kikinda, Sremska Mitrovica and the court departments in Sid and Kanjiza with the aim to pay attention to the implementation of basic procedural rights in processes where defendants were persons likely in need of international protection. Attention was focused mostly on the adequate usage of language in proceedings, possibility to seek asylum and to be granted access to asylum procedure for those persons who request it, or for which it is obvious, from their statements that they have left their countries of origin due to persecution or a justified fear of persecution on one of the grounds for which international protection is guaranteed. Furthermore, it was important to focus on penalization practice and treatment of UASC. Information regarding the implementation of the Law on Foreigners and the Law on Border Control regarding illegal stay and illegal entry into the Republic of Serbia was sought as well.

The new Law on Foreigners, as well as the new Law on Border Control, was adopted in 2018 and began to apply from October 2018. It is important to point out that, in addition to some positive new provisions (such as temporary stay on a humanitarian basis, obligation to adopt the Bylaw on Tolerated Stay etc.), the legal maximum fines for illegal entry into the Republic of Serbia or illegal stay have been significantly increased in the new Law on Foreigners in comparison to the previous one. Namely, the legal maximum has been increased from 50,000 RSD for illegal entry and 30,000 RSD for illegal stay, to 150,000 RSD on both bases. The Law on Border Control provides a wide range of fines for illegal entry into the RS; from 10,000 RSD to 100,000 RSD.

After we had opportunity to examine great many numbers of cases, one of the first and most obvious impressions was that the practice of the misdemeanour courts in AP Vojvodina was absolutely incoherent. By far, the greatest number of misdemeanour cases were brought before the Misdemeanour Court in Senta (with Departments in Kanjiza, Ada and Coka), which in the course of 2018 had 638 first-instance verdicts for violations of the Law on Protection of State Border and

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49 Law on free Access to Information of Public Importance (*Official Gazette RS*, No. 120/04 and 54/07)

the Law on Border Control. Out of that number, 122 defendants were minors. In all 122 cases, an educational measure was imposed, and in only one case an appeal was filed, and the first-instance verdict was abolished and returned to retrial. In addition to corrective measures, 511 convictions and 5 acquittal decisions were issued. However, in almost all cases in Senta or Kanjiza Court, judges imposed only a warning because they were aware of the extremely difficult position of refugees and migrants and their lack of any income. Certainly, this can be considered as an example of positive practice. Regarding the application of the Law on Foreigners, the Misdemeanour Court in Novi Sad had the highest number of cases – 223 imposed fines, 214 for violations of Article 85, paragraph 1, point 1 (illegal stay), or Articles 121 and 122 of the new Law on Foreigners.

In general, most judges imposed fines. The Misdemeanour Court in Subotica imposed a sentence of imprisonment in only six cases, as well as 14 warnings. In most cases, minors were issued with corrective measures. The highest fine identified in the Misdemeanour Court in Zrenjanin, was imposed on a citizen of Iraq. He was sentenced to a fine of 30,000 RSD because he had been previously convicted in the Basic Court in Subotica for committing a criminal offence - theft and also has been issued with an expulsion order (cancellation of residence). In this case, it was noted that when imposing sanctions, the judge took into consideration, as a mitigating circumstance, that the man didn't have a travel document, any money nor was he able to earn it, and that he had tried several times to leave Serbia on his own but "Bulgarian border police had always returned him to Serbia because he didn't have travel documents". In addition to established "mitigating circumstances" that the defendant didn't have any income, the judge decided to also oblige him to pay the costs of the trial and he had to pay the sum immediately.

It seems to us that the presence and engagement of official interpreters in the misdemeanour procedures has been the greatest challenge and that all subsequent gaps and problems are caused by this initial gap. This would presumably be the main reason why not even one case was observed where proceedings had been suspended because the foreigner – the defendant has asked for asylum in Serbia during the misdemeanour procedure.

Having all this in mind, it is important to emphasize, as an example of very good practice, the actions of the judges of the Misdemeanour Court Sremska Mitrovica, that were regularly dismissing requests for the initiation of misdemeanour proceedings, when it was established that there was no possibility of securing adequate interpretation (most often it was Pashto language), or when the defendants

didn't understand English which was mostly used as a substitute. During 2018, Misdemeanour Court Sremska Mitrovica dismissed 452 requests out of 586 initiated misdemeanour proceedings.<sup>50</sup> Out of 586 cases, underage defendants were involved in 172 cases. 145 were dismissed and 14 minors were sentenced with corrective measures.

#### Summary and statistical overview:

- ▶ Penalization under the violation of the Law on Foreigners: biggest number of cases were brought before the Misdemeanour court in Novi Sad, 223 cases and decisions.
- ▶ Penalization under the violation of the Law on Border Control: greatest number of cases were brought before Misdemeanour Courts in Senta (638 regarding irregular border crossings with Hungary, but also Romania) and in Sremska Mitrovica (586 regarding border with Croatia).
- ▶ Misdemeanour Court in Kikinda acted in 187 proceedings due to violation of the Law on Border Control.
- ▶ The Misdemeanour Court in Subotica acted in 43 cases that were filed due to violation of the Law on Border Control and Law on Protection of State Border and 83 cases due to violation of the Law on Foreigners.
- ▶ In three verdicts in Zrenjanin, Sremska Mitrovica and Novi Sad Misdemeanour Courts, where cases related to foreign nationals that were already previously penalized for illegal stay/entry and were ordered to leave Serbia, judges officially marked in the explanation of the verdict that "foreigners tried to leave Serbia on their own, but Bulgarian/Hungarian border guards prevented their entry and "pushed them back" to Serbia". However, this had no mitigating effect, to the contrary, they were also found guilty and sentenced to even higher fine.
- ▶ Only in Sremska Mitrovica and Senta Misdemeanour Courts including their Departments (Sid and Kanjiza) a local social worker was engaged in every case where an unaccompanied minor was the defendant. However, in other courts such practice wasn't observed in all cases we had an insight (in one case it was even noted that CSW was invited but didn't respond).

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<sup>50</sup> Violation of the Law on Border Control (*Official Gazette RS*, number 24/2018) and Law on Protection of State Border (*Official Gazette RS*, number 97/2008 and 20/2015-other law).

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- ▶ Verdicts were very similar, with very limited data on defendants, without clear and sufficient explanations where they came from and why they came to Serbia, how, in many cases individual needs were not taken into consideration neither situations in their countries of origin. It can be concluded that quite often meaningful communication didn't exist and due to the inability to communicate in their native language, many of them were not in a position to explain their position, ask for protection or even probably to understand the ground of the specific process they were subjected to. Many verdicts had been passed verbally, the defendants, as a rule, had not required delivery of a written decision and they waived their right to appeal.

NB: In March 2019, one misdemeanour procedure in Sid was suspended because the defendant explicitly stated that he wanted to seek asylum in Serbia.

# Concluding remarks and recommendations

This paper presents key findings and observations, collected data and efforts of the two UNHCR partners – HCIT and CRPC, for the second year in a row two organizations have continued to facilitate access of refugees and migrants to the asylum procedures and public services and monitor the protection situation of hundreds of refugees and migrants in Belgrade and the border areas on a daily basis.

Many vulnerable individuals were identified and assisted among thousands of newly arrived refugees, asylum seekers and migrants in 2018. Some of them were in urgent need of international protection, while a number faced different forms of ill treatment both in the countries of origin and in the transit countries. The vast majority of all refugees and migrants CRPC and HCIT teams worked with, highlighted that they had been forced to travel with smugglers and that they had been exposed to different risks and great dangers on their way to safety and security.

Refugees still perceived EU Member States as their final destination, with only a small number of asylum seekers deciding to seek international protection in Serbia. Similar to the available 2017 asylum statistics, only 4% of those who expressed intention to seek asylum, officially submitted asylum requests to the Asylum Office in 2018. An increase in the number of granted statuses (25 in comparison to 14 in 2017) was observed.

In comparison to the 2015 refugee crisis and the consequent changes in the protection response throughout 2016 and 2017, the situation in 2018 stabilized and moved from transit to a more constant state. More refugees and migrants stay in Serbia for prolonged periods of time, which requires that all actors involved in refugee protection: institutions, civil society and international organizations, take a more solution-oriented approach. At the same time, irregular arrivals and departures continued in 2018, so this paper also examines this issue from the point of view of two organizations and their front-line experiences.

Despite the fact that 2018 was marked by significant results and progress in many areas and that the work and efforts of State institutions and international community in Serbia were greatly commended, Serbia as an EU candidate country still has more to do on the development of an efficient asylum system and effective migration policies. It is important to mark some specific areas of protection, such

as child protection but also broader protection of asylum seekers and refugees in the scope of international law and the international human rights law, where further improvements are necessary.

Furthermore, having in mind the additional vulnerability of certain groups, such as UASC, women travelling alone or with children, elderly persons etc. more needs to be done in the area of anti-smuggling and anti-human trafficking efforts. Strong and decisive actions by the key stakeholders (police, social system, prosecutors, NGOs that provide professional services etc.) must be stressed when it comes to the protection of vulnerable groups and individuals.

While in Serbia, the refugee and migrant population should continue to have access to services and adequate information and counselling about their rights and responsibilities, and asylum and integration possibilities. Although their motivation often leans towards the continuation of their journey, the reality is that their stay in Serbia has become prolonged and they should have the information about available options – from asylum, education to access to labour market etc.

On the other hand, social sensitisation of domicile population at a local level and general public, encouraging tolerance and acceptance should continue in the coming years. Such activities should involve both State stakeholders and civil society organisations and citizen's initiatives.

Further strengthening of the protection system should be in focus as well, including support to integration programs for schoolchildren and adults. In order to provide comprehensive protection of beneficiaries and service beneficiaries, better communication between field actors and stakeholders is proposed. Therefore, civil society organization and international organizations that are working with refugee and migrant population in Serbia, should make their interpreters and cultural mediators available to public institutions (similar to what HCIT and CRPC are doing) in order to ensure proper implementation of different procedures and access to the rights available. Such aid should be provided in accommodation centres, across the education system, as well as in welfare institutions and facilities etc.

For example, misdemeanour proceedings should always be run with the adequate interpreter. Practice has shown this is not always the case<sup>51</sup>. Additionally, more trainings for judges of misdemeanour courts are necessary, and their practice need to be more harmonized and coordinated across the Republic of Serbia.

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51 N1 Info, "Maloletni migranti iz Avganistana završili u zatvoru za odrasle u Novom Sadu" 17.01, 2019, available at <http://rs.n1info.com/Vesti/a452768/Maloletni-migranti-iz-Avganistana-završili-u-zatvoru-za-odrasle-u-Novom-Sadu.html>

Support to domicile communities should be a goal as well, with improving their everyday communication with foreigners, in local schools, police stations, medical institutions etc. with properly trained and sensitized staff, interpreters and cultural mediators.

As presented in this paper, child protection system has been identified as the one most challenging in the Republic of Serbia in 2018. The importance of engaging local centres for social work and proper interpreters in all the procedures affecting UASC, and in misdemeanour procedures in particular, cannot be stressed enough.

Only few UASC (according to Serbian Asylum Office only five UASC until November 1) had actually submitted official asylum applications and initiated the procedure in the Republic of Serbia in 2018. Counselling of UASC is extremely challenging, but, regardless of children's expectations and plans, protection of children with adequately trained professionals, while they are on Serbian territory or decide to stay, should be the goal. Simple information provision about asylum does not suffice, especially when a child is under tremendous pressure by the parents or smugglers to continue towards the EU, where most likely they will be forced to pay off for their travel expenses.

Furthermore, it is necessary to establish a unified database of all UASC on the territory of RS in line with national and international standards. Such a database should connect all national and local actors in the field of refugee protection, State institutions but also civil society organisations having in mind all the legislation, standards and procedures related to the data protection. At the moment at least three different databases are in use:

1. Ministry of Interior – Police stations and the Asylum Office have been running their own database regarding number of UASC that had expressed intention to seek asylum and number of UASC that submitted asylum requests,
2. SCRM is keeping a database regarding the number of UASC accommodated in Asylum and RTC centres, and
3. MoLEVSA is keeping the third data base on the number of UASC accommodated in the welfare institutions etc.

Practice of “closed EU” borders and series of collective expulsions of refugees and asylum seekers from neighbouring countries to Serbia, had continued throughout 2018. In addition to denial of access to asylum in these countries, many harmful practices were observed and documented. While conducting interviews and

collecting testimonies of different cases of human rights violations, both HCIT and CRPC strived to provide timely and accurate information on the available options and services, securing the actual protection of the beneficiaries. The advice received from CRPC and HCIT protection teams was crucial for many of them, in order to replace dangerous irregular movements with safe and orderly stay in the Republic of Serbia.

As evidenced over the past couple of years, migration has become a common challenge for the entire Western Balkan Region and especially for the EU where the refugee influx stretched asylum systems to the breaking point. With hundreds of thousands of people fleeing their countries of origin and exposing themselves to life threatening risks in order to reach the EU borders, the issue of migration emerged as the most important issue on the political agenda. Having in mind the observed trends, the current situation in Turkey and Greece, ongoing conflicts in many countries in Asia, Middle East and Africa, the migration flow is expected to continue.

## LIST OF ABBREVIATIONS

- AC** – Asylum Centre
- AP** – Autonomous Province
- AVR** – Assisted Voluntary Return
- BIA** – Best Interests Assessment
- BID** – Best Interests Determination
- CoO** – Country of Origin
- CRPC** – Crisis Response and Policy Centre
- CSW** – Centre for Social Work
- EU** – European Union
- SGBV** – Sexual and Gender-Based Violence
- GPS** – Global Positioning System
- HCIT** – Humanitarian Center for Integration and Tolerance
- IOM** – International Organization for Migration
- LGBTIQ** – Lesbian, Gay, Bisexual, Transgender Intersex and Queer Persons
- MoI** – Ministry of Interior
- MoLEVSA** – Ministry of Labour, Employment, Veteran and Social Affairs
- NFI** – Non-Food Items
- NGO** – Non-Governmental Organization
- PoC** – Person(s) of Concern to UNHCR
- RS** – the Republic of Serbia
- RSD** – Serbian Dinar
- RTC** – Reception and Transits Centre
- SCRМ** – Serbian Commissariat for Refugees and Migrations
- SGBV** – Sexual and Gender-Based Violence
- SW** – Social Worker
- UAM** – Unaccompanied Minor
- UASC** – Unaccompanied and Separated Child/Children
- UN** – United Nations
- UNHCR** – United Nations High Commissioner for Refugees
- UNICEF** – United Nations Children’s Fund

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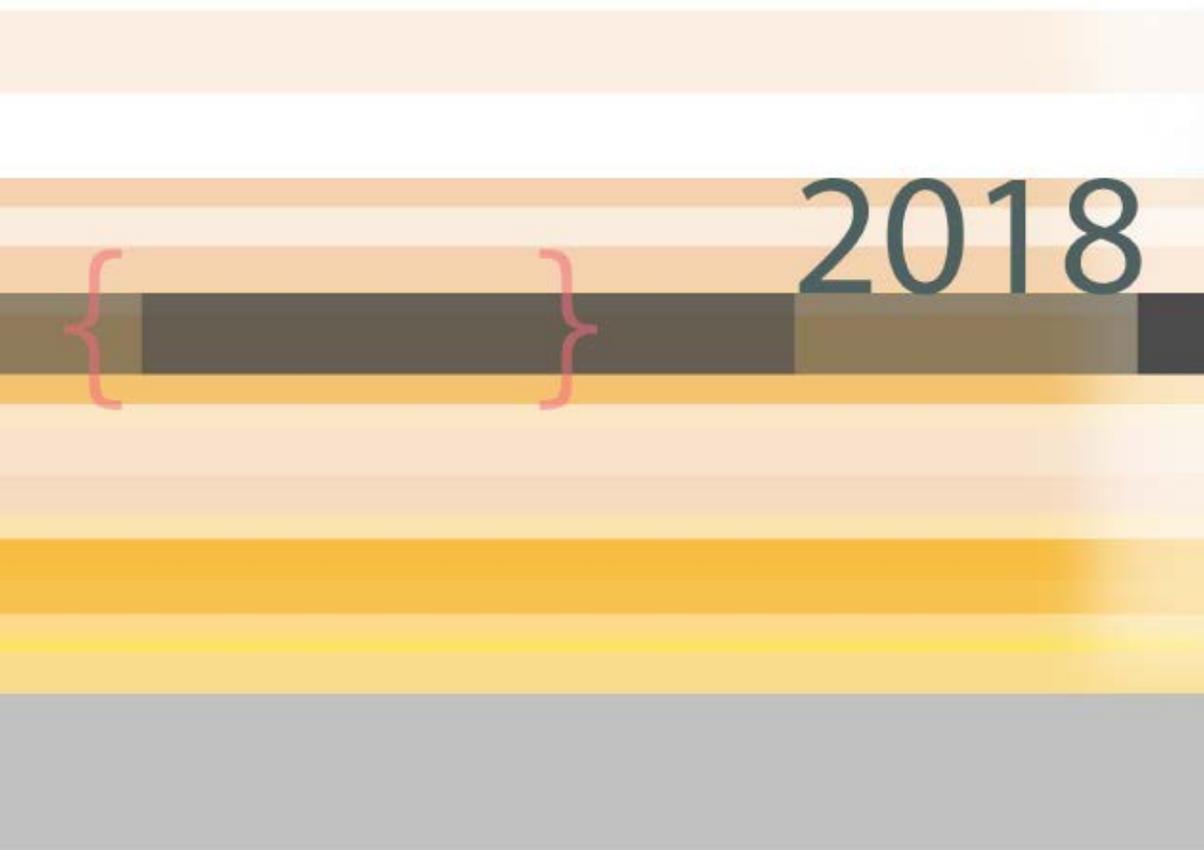
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