

DEMOCRACY AND HUMAN RIGHTS

# REFUGEE LAW AND ITS IMPLEMENTATION IN THE WESTERN BALKANS

**Teuta Vodo**  
**Alexandre Riou**  
November 2021



The Western Balkan countries were in the frontline of the 2015 refugee crisis. In this regard, the EU has coordinated national efforts to manage migration.



Most Balkan countries have adopted their legislation to ensure the reception of refugees in line with the *Acquis Communautaire*.



The Balkan countries managed the migration flows by considering the European refugee law and standards, national refugee laws and standards that protect asylum-seekers and refugees.



# Table of Contents

1	<b>ABSTRACT</b> .....	5
2	<b>POLITICAL FRAMEWORK: MANAGEMENT OF REFUGEE CRISIS</b> .....	6
3	<b>NATIONAL LEGAL FRAMEWORK ON ASYLUM-SEEKERS AND REFUGEE PROTECTION</b> ....	8
4	<b>METHODOLOGICAL CONSIDERATIONS</b> .....	12
5	<b>COUNTRY MEASURES FOR ASYLUM SEEKERS AND REFUGEES: REFUGEES' CUMULATIVE GLOBAL APPROACH</b> .....	13
6.	<b>ASYLUM APPLICATIONS AND REFUGEE FLOWS</b> .....	16
7.	<b>ESTIMATE OF ILLEGAL FLOWS THROUGH THE BALKAN ROUTE</b> .....	19
8.	<b>THE EUROPEAN UNION AND IMMIGRATION: DEVELOPMENTS BETWEEN 2014 AND 2019</b> .....	21
9.	<b>CONCLUSION</b> .....	24
	<b>REFERENCES</b> .....	25



## 1

## ABSTRACT

The refugee law is relevant to rethink the practice of the law and refugee protection. In the Western Balkans, the EU has coordinated national efforts to manage migration and reduce the irregular arrivals on the Balkan route. In this regard, the relations of the Western Balkans with the EU have progressed as significant steps forward in the future membership of the EU have been taking place. The Balkan countries, parties to the 1951 Refugee Convention and its 1967 Protocol, have enacted relevant national legislation and established national asylum systems. Nevertheless, the management of migration flows raises serious gaps in institutional structures, asylum procedures and return mechanisms dominated by security concerns.

Therefore, the aim of this paper is to find out the extent to which the Balkan countries implement refugee law in view of migration flows. We argue that Balkan states

implement refugee law only to the extent to which the refugee question is associated by EU refugee agenda.

This comparative study analyses how the Balkan countries managed the migration flows by considering the European refugee law and standards (I), National refugee laws and standards that protect asylum-seekers and refugees (II), State measures under refugee: roles and responsibilities (III). Secondly, the paper analyses asylum-seekers and refugees' access to asylum status determination procedure, categories of rescues. Finally, the study compares the efforts of Western Balkans countries to address the challenges of asylum application and the EU migration policy.

**Keywords:** *Western Balkans, EU refugee law, institutional structures, asylum procedures, return mechanisms, migration flows*

## 2

## POLITICAL FRAMEWORK: MANAGEMENT OF REFUGEE CRISIS

In the framework of the refugee crisis, Western Balkan (WB) countries have been mainly transiting countries for refugees and migrants entering the European Union. Western Balkan countries have been considered as ‘weak’ and ‘poor’ in providing effective protection with several problems in handling with the asylum systems.<sup>1</sup> The EU has addressed Western Balkan countries financially to help in improving their reception capacities, drafting new and improved asylum laws, and developing border surveillance systems and closer cooperation with Frontex and Europol.<sup>2</sup> Through the IPA mechanism alone, €216 million were allocated to the Balkan countries in the field of migration between 2007 and 2019.<sup>3</sup>

In addition to financial assistance, the European Commission has always encouraged collective coherent and regional responses in the context of the migration crisis (summits gathering Western Balkans leader and EU officials were conducted in 2016 in Paris and Vienna).<sup>4</sup> Despite these efforts in the matter by the EU, responses toward migration were mainly addressed at the national level, in absence of a regional approach. Some argue that these responses “may exacerbate disparities in capacities

of States”.<sup>5</sup> Without coordinated responses at regional level, government and politicians of the countries have free hand to use the matter in their account.<sup>6</sup>

Some authors argue that the context of migration crisis helped the leaders of the region to legitimize their actions in line with their national internal political discourse by arguing a pro-security rhetoric leading to “dehumanization” of migrants by portraying them as a “threat to national security and social cohesion”.<sup>78</sup> For example, in North Macedonia, Šabić and Borić argue that: *considering Macedonia’s political turmoil not associated with the migrant crisis, this issue did not register high on the daily agenda for politicians and, consequently, the media. In general, the VMRO-DMPNE government’s response to the refugee crisis could be characterized as indifferent, if not openly hostile.*<sup>9</sup> At the same time it provided individual politicians, particularly the case of the Prime Minister Gruevski, with an opportunity to introduce themselves as “anchors of stability and reliable international partners”.<sup>10</sup> Considering that North Macedonia was the entry point to the Balkan route, then for politicians arguing politically whether to hold up the flow of migration or closing the borders, it was a good

1 UN High Commissioner for Refugees (UNHCR), *Serbia as a country of asylum. Observations on the situation of asylum-seekers and beneficiaries of international protection in Serbia, August 2012*, available at: <https://www.refworld.org/docid/50471f7e2.html> [accessed 24 October 2021], para. 10; UN High Commissioner for Refugees (UNHCR), *The Former Yugoslav Republic of Macedonia as a country of asylum: Observations on the situation of asylum-seekers and refugees in the Former Yugoslav Republic of Macedonia*, August 2015, available at: <https://www.refworld.org/docid/55c9c70e4.html> [accessed 24 October 2021], para. 3.

2 Trauner F., Neelsen S., *The impact of Crisis on Political Dynamics in the Western Balkans*, European Institute of the Mediterranean, 2017 <https://www.iemed.org/publication/the-impact-of-the-migration-crisis-on-political-dynamics-in-the-western-balkans/>.

3 European Commission, “Progress report on the implementation of the European agenda for migration”, 16 October 2019: <https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:52019DC0481&rid=1>.

4 Trauner, F., Neelsen S., *op.cit.*,

5 Zitnanova K., *Refugee Protection and International Migration in the Western Balkans*, UNHCR, March 2014, p. 49.

6 *Ibid*

7 Abikova J., Piotrowicz W., 2021 Shaping the Balkan Corridor: Development and Changes in the Migration Route 2015-16, *International Migration* 59:248–265 <https://onlinelibrary.wiley.com/doi/full/10.1111/imig.12828>.

8 Mušić, S., Agović, A. 2017. *Securitization of migrant crisis on the Western Balkan route*. 22nd International Scientific Conference on National Minorities, Migration and Security in Democratic Societies.

9 Šabić, S. Borić, S. 2016. *At the Gate of Europe: A Report on Refugees on the Western Balkan Route*, FES, , p. 7 Available at: [https://bib.irb.hr/datoteka/914398.At-the-Gate-of-Europe\\_WEB.pdf](https://bib.irb.hr/datoteka/914398.At-the-Gate-of-Europe_WEB.pdf).

10 Trauner F., Neelsen, S., 2017. *The impact of Crisis on Political Dynamics in the Western Balkans*, European Institute of the Mediterranean.

case to distinguish them and receive support among its public and abroad.<sup>11</sup>

On contrary with the situation in North Macedonia, the authors argue that “the Serbian government has offered the most positive rhetoric towards the refugees”.<sup>12</sup> This rhetoric was *inter alia.*, due to the beginning of the process of negotiations and opening the EU chapters in 2015 (same year that the refugee crisis started) and this constructive approach would be much in line with the EU.<sup>13</sup> Therefore, the political discourse in Serbia was constructed around two main narratives:

- i. one was that Serbian citizens empathized with refugees, remembering the refugee waves during the wars in the 90s.
- ii. Serbia has demonstrated itself to be a reliable and responsible European state – one that will conclude negotiations and become a member state of the EU.<sup>14</sup>

Even though the other Balkan countries were not affected by the migration flows to such an extent as North Macedonia and Serbia, in Albania the Greek–Albanian border remains open in this direction and a relevant increase of the number of refugees have been reported in Bosnia and Herzegovina in their attempt to cross the border and enter Croatia.<sup>15</sup>

The pro-security approach toward migration crisis, marks off the management of the refugee crisis in

the Western Balkans as classified under the “populist type”.<sup>16</sup> As Krasteva points out, the securitization of migration spreads out “from political actors toward citizens” classified as the vertical direction and “from small groups or local communities toward individual, or society at large” defined as the horizontal direction.<sup>17</sup> In this regard, “refugee flows become a “crisis” when their “mediatization and politicization” in public and political discourse turn them into a crisis.<sup>18</sup>

As a result, “the political position of states in the migratory journey” is “that different state officials referred to migrants’ agency when it coincided with their political position”.<sup>19</sup> WB countries facilitated the transit of the refugees by claiming ‘they did not have requisite facilities to accommodate such a large number of asylum seekers’ and in addition by introducing new national legislation that leads to that goal.<sup>20</sup>

Additionally, the transit countries of the Western Balkans such as Serbia and North Macedonia held a position of “*turning a blind eye*” for the refugees crossing the borders.<sup>21</sup> In light of this approach, both countries have provided 72-hour travel permits if refugees indicated their intention to seek asylum. This measure was taken while considering that the majority of refugees and migrants crossed the territories of these countries without intending to seek asylum from their authorities.

11 Šabić, S.Š., Borić, S. op.cit., ; Bieber, F., *Gruevski does not deserve any more chances*, Balkan Insight. June, 2015, available at: <https://balkaninsight.com/2015/06/23/gruevski-does-not-deserve-any-more-chances/>

12 Šabić, S.Š. & Borić, S. *At the Gate of Europe: A Report on Refugees on the Western Balkan Route*, FES, 2016, p. 10, available at : [https://bib.irb.hr/datoteka/914398.At-the-Gate-of-Europe\\_WEB.pdf](https://bib.irb.hr/datoteka/914398.At-the-Gate-of-Europe_WEB.pdf)

13 *Ibid.*,

14 Šabić, S. Š. *The impact of the refugee crisis in the Balkans: A drift towards security*. *Journal of Regional Security*, 12(1): 57, available at: [https://www.researchgate.net/publication/320882258\\_The\\_Impact\\_of\\_the\\_Refugee\\_Crisis\\_in\\_the\\_Balkans\\_A\\_Drift\\_Towards\\_Security](https://www.researchgate.net/publication/320882258_The_Impact_of_the_Refugee_Crisis_in_the_Balkans_A_Drift_Towards_Security)

15 [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS\\_BRI\(2016\)573949\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS_BRI(2016)573949_EN.pdf)

16 Krasteva A., *Balkan Migration Crises and Beyond*, *Southeastern Europe* 45 (2021), p. 185 [file:///C:/Users/brunilda.brati/Downloads/\[18763332%20-%20Southeastern%20Europe\]%20Balkan%20Migration%20Crises%20and%20Beyond.pdf](file:///C:/Users/brunilda.brati/Downloads/[18763332%20-%20Southeastern%20Europe]%20Balkan%20Migration%20Crises%20and%20Beyond.pdf)

17 *Ibid.*, p. 186.

18 *Ibid.*, p. 185.

19 Sardeli, J., 2017., *op.cit.*, p. 3.

20 *Ibid.*,

21 Abikova J., Piotrowicz W., *Shaping the Balkan Corridor: Development and Changes in the Migration Route 2015-16*, IOM Un Migration, February 2021 <https://onlinelibrary.wiley.com/doi/full/10.1111/imig.12828>

## 3

## NATIONAL LEGAL FRAMEWORK ON ASYLUM-SEEKERS AND REFUGEE PROTECTION

While addressing the refugee reception in the Western Balkans, a set of solid quantified benchmarks is required among which, the definitions of ‘refugees,’ asylum seekers and ‘migrants’ which need a clarification from the literature. These two definitions refer to very distinct semantic and legal frameworks despite the combinations persisting very often by the public. Thus, before going on the core of the analysis of the refugee protection in the Western Balkans, it is necessary to define first the definitions such as refugee, asylum-seekers, and migrants that are crucial for the aim of this study. Additionally, from a political perspective, the clear difference between these definitions is very crucial because it affects the responses and policies that governments carry toward legal protection of these categories.

If we refer to the Glossary on Migration of the International Organization for Migration (IOM), the definition *asylum-seeker* is defined as follows: *A person who seeks safety from persecution or serious harm in a country other than his or her own and awaits a decision on the application for refugee status under relevant international and national instruments. In case of a negative decision, the person must leave the country and may be expelled, as may any non-national in an irregular or unlawful situation, unless permission to stay is provided on humanitarian or other related grounds.*<sup>22</sup>

The crucial point that differentiates the definition from refugee is “*waiting for a decision*” as pointing out that this is a prior status to that of ‘*refugee*’ when the decision is taken. The same definition is also made by UNHCR as stated that “*an asylum-seeker is someone whose request for sanctuary has yet to be processed*”.<sup>23</sup> Governments use this difference in definition while implementing the asylum

policies therefore, it is a crucial point to be considered not only from the procedural point of view but also politically significant in key electoral processes. As a result, procedural responses to asylum-seekers and consequently their rights can vary among countries in the region.

Refugees ‘are defined and protected in international law and must not be expelled or returned to situations where their life and freedom are at risk.’<sup>24</sup> This explicitly defined the same also according to the 1951 Refugee Convention or the Geneva Convention of 28 July 1951 as amended by its Protocol of 1967<sup>25</sup>

On the other hand, the definition ‘*migrant*’ is controversial and different which may have a broader or narrower meaning. Yet, what can be considered as a common approach by the international institutions and respective legal documents is the attempt to define ‘migration’ as a voluntary process, such as the case of someone who crosses the border in search of better economic opportunities which differentiates with the cases of refugees or asylum-seekers, who cannot return home safely and accordingly are in need for specific protections under international law.<sup>26</sup> In this sense, a migrant is a person who *chooses* to move from their home for many reasons, but not specifically because of a direct threat of persecution or death. If they decide to return to their home countries, they are not threatened and can still receive protection by their government unlike refugees or asylum seekers who fear death.<sup>27</sup>

24 <https://www.unhcr.org/refugees.html>

25 UNHCR, *Convention and Protocol Relating to the Status of Refugees* <https://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>

26 UN High Commissioner for Refugees (UNHCR), ‘*Refugees’ and ‘Migrants’ - Frequently Asked Questions (FAQs)*, p. 2, 31 August 2018, available at: <https://www.refworld.org/docid/56e81c0d4.html> [accessed 17 October 2021].

27 UNHCR “‘*Refugee*’ or ‘*migrant*’ - Which is right?” 2016, available at: <https://www.unhcr.org/55df0e556.html>.

22 Glossary on migration IOM [https://publications.iom.int/system/files/pdf/iml25\\_1.pdf](https://publications.iom.int/system/files/pdf/iml25_1.pdf), p.12

23 <https://www.unhcr.org/asylum-seekers.html>

The Western Balkan (WB) countries have adopted national asylum laws and established national asylum systems.<sup>28</sup> They are State Parties to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol by succession or accession.<sup>29</sup> In general, their legal frameworks are following international and EU standards where here have been revisions and amendments of existing laws throughout the years, which shows a commitment of the region to address the humanitarian emergencies by closing the legal loopholes. Nevertheless, there are gaps in institutional structures and capacities for all the countries in the region, as well as non-effective and inconsistent implementation of the legislation.<sup>30</sup>

The law provisions which regulate the international protection of refugees in the region have some substantial common elements as such as: the right to asylum; protection of return or expulsion (non-refoulement principle); subsidiary protection; temporary protection; the rights of the applicant and the person granted the status of refugee or subsidiary protection. There are, however, differences of state authorities in charge of receiving the application and dealing with the asylum-seekers; differences on application procedures and timeframe; special procedures. These differences are explained in the section below by describing the legal framework and the state of play per each country.

**North Macedonia:** Continuous commitment have been undertaken by North Macedonia to revise its legal framework for determining the status of refugee that meets international standards and the EU *acquis*. The international protection (the right to asylum) is granted in the Macedonian Constitution,<sup>31</sup> and is further regulated in the Law 'On asylum and temporary protection' from 2003, amended in 2016 and superseded by the latest 'Law on International and Temporary Protection' in 2018.<sup>32</sup>

One of the main revisions by the Macedonian parliament in responding to the issue of asylum seekers was the amendment to the Law 'On Asylum and Temporary Protection' in June 2015, according to which, the new procedure in place allows refugees and migrants to apply for a travel document that gives them permission to stay in the Macedonian territory for 72 hours, meanwhile they can legally apply for asylum.<sup>33</sup> This change is considered a positive step as it ensures "that legal protection, as well as humanitarian assistance, is provided to refugees and migrants".<sup>34</sup>

The law regulates proceedings on the application procedure, and its submission done "before the police at a border crossing point, at the nearest police station, in the Reception Centre for Foreigners or to the Sector for Asylum."<sup>35</sup> It foresees the authorities responsible for the implementation of the asylum procedure specifically the Ministry of Interior and the Ministry of Labour and Social Policy.<sup>36</sup> Meanwhile, it stipulates the rights of the applicants<sup>37</sup> until the final decision in the procedure for recognition of the right to asylum as well as in the time when temporary protection or subsidiary protection is granted.

Despite this process, there still exist shortcomings when it comes to its implementation. In regard with the reception centers, even though with limited resources, the main reception centers in North Macedonia, where asylum applicants are immediately transferred and interviewed are the reception centers in Skopje, Vizbegovo and Gazi Baba.<sup>38</sup>

**Albania:** as other Western Balkan countries, Albania has been a transit country for migrants and refugees and not a destination. However, the efforts addressed by

28 Law on Asylum and Temporary Protection in North Macedonia (2018); Law on Asylum in Albania (2021); Law on Asylum and Temporary protection in Serbia (2018); Law on Asylum in Bosnia and Herzegovina (2008) amended in 2016; Law on Asylum in Kosovo (2018) and Law on Asylum in Montenegro (2018).

29 Zitnanova, K., *Refugee Protection, and International Migration in the Western Balkans*, UNHCR, March 2014, available at: <https://www.unhcr.org/5375c9ab9.pdf>

30 Zitnanova K., *op.cit.*; Bazerkoska B. J., 2018. The refugee relocation system in EU and its implications to the countries on the Western Balkans route: the aftermath of the flawed reception conditions in the EU, *La Revue des droits de l'homme*, 13 [Online], p. 6, available at: <http://journals.openedition.org/revdh/3392>.

31 Constitution of the Republic of Macedonia, *Official Gazette*. no. 52/1991.

32 Law on Asylum and Temporary Protection (from 2003, as amended in 2016, and superseded by 2018 Law on International and Temporary Protection) in North Macedonia, 11 April 2016, available at: <https://www.refworld.org/docid/53072d144.html>

33 Sardeli, J., 2017. *From Temporary Protection to Transit Migration: Responses to Refugee Crises along the Western Balkan Route* EU Working Paper RSCAS, pp. 12-13 / Šalamonn N.K., 2016. Asylum Systems in The Western Balkan Countries: *Current Issues, International Migration*, 54(6): 6; Law on Asylum art. 62-66

34 Kilibarda, P., 2017. *Obligations of transit countries under refugee law: A Western Balkans case study*, *International Review of the Red Cross*, 99(1): 211–239, available at: [https://international-review.icrc.org/sites/default/files/irrc\\_99\\_13.pdf](https://international-review.icrc.org/sites/default/files/irrc_99_13.pdf)

35 Article no. 26 Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia" nos. 49/2003, 66/2007, 142/2008, 146/2009, 166/2012, 101/2015, 152/2015, 55/2016 and 71/2016).

36 Bazerkoska B. J., 2018. *op.cit.*, p. 6

37 Article no. 61, Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia" nos. 49/2003, 66/2007, 142/2008, 146/2009, 166/2012, 101/2015, 152/2015, 55/2016 and 71/2016).

38 Oruc N., Sand R., Santic D., *The Western Balkan Migration Route* (2015-2019) Analytical Report, International Centre for Migration Policy Development (ICMPD), March 2020, p. 7, available at: <https://www.pragueprocess.eu/en/migration-observatory/publications/document?id=289>

the Albanian authorities in response to such migration flows to provide all the necessary services and effective response to asylum-seekers and refugee protection. Due to the recent growing influx of refugees in the recent years, Albania has made efforts in terms of reception capacities to be doubled at the National Reception Centre and adding additional reception facilities at the border.<sup>39</sup>

Law No. 10/2021 on Asylum,<sup>40</sup> in the Republic of Albania outlines the procedures for individuals arriving in Albania and seeking asylum to. In this regard, the right to asylum under the Article 5 of the Law foresees the necessary institutions and procedures to handle asylum applications.

Nevertheless, besides the efforts done and the support received by relevant international bodies to provide effective response in ensuring asylum seekers and refugees their rights for asylum procedures, Albania still faces challenges in implementing the law and relevant regulations in this matter. A challenging situation for national border authorities remains the “proper identification and registration of unaccompanied minors”<sup>41</sup> amid the pre-screening procedures in place.<sup>42</sup> In this respect, even though the Article 35 of the ‘Law on Asylum’ stipulates that an unaccompanied minor asylum seeker should be questioned in the presence of a psychologist, social worker, or someone who knows the child yet, this requirement has encountered the lack of coordination among relevant institutions”<sup>43</sup>.

The asylum procedure includes the applications registered by the Border and Migration Police<sup>44</sup> by filling out the pre-screening forms, then reported to the Directorate of Asylum and Citizenship to proceed with the status determination procedures. In addition, refugees are entitled with the right to be informed and to legal and interpreting assistance during the registration and asylum application procedures.<sup>45</sup>

**Serbia:** The migration legislation to the EU *acquis* has been harmonized considering that is upfront in the EU integration process in comparison with other WB countries. Most important one is the new 2018 ‘Law on Asylum and Temporary Protection’.<sup>46</sup> This law guarantees the right to asylum, in addition to the Serbian Constitution.

Similar as in North Macedonia, Serbia has adopted an amendment in 2015, on a 72-hour temporary period in which potential asylum seekers could enter the country and express their intention to seek asylum. This is considered as an urgent short-term measure to ensure provision of legal protection, as well as humanitarian assistance to refugees and migrants.<sup>47</sup> State authorities responsible along the process are different including the Ministry of Interior, the Asylum Commission and the Ministry of Labour, Employment, Veterans and Social Policy.<sup>48</sup>

When it comes to the application procedure, refugees can apply for asylum, starting from their first contact with the border police. The 2018 ‘Law on Asylum and Temporary Protection’ grants the possibility for the entire asylum procedure to be conducted at a border crossing or in the transit area of airports and inland ports, complying with the main principles provided by the law. Therefore asylum-seekers are then accommodated in the ‘Shelter for Foreigners’ as per decision of the Asylum Office.<sup>49</sup> In addition, the country has five reception centers while refugees along borders can obtain help and services at several aid points.<sup>50</sup> The law outlines right and duties of the individuals granted subsidiary protection or refugee status. Finally, it foresees an individual integration plan for the refugees by the Commissariat for Refugees and Migration.<sup>51</sup>

**Montenegro:** As other neighboring countries, Montenegro has aligned its refugee law with the *Acquis Communautaire* and international standards, thus adopting the new law on ‘International and Temporary Protection’ which entered into force in 2018.<sup>52</sup>

39 Xhaho A., Tandilli A., 2019. *Vulnerable Asylum Seekers and Irregular Migrants in Albania: Trends, Challenges, and Policy Solutions*, Institute for Democracy and Mediation, p. 7

40 Law No. 10/2021 on Asylum, in the Republic of Albania, <https://www.refworld.org/docid/60533c8c4.html> This law superseded and replaced *Albania: Law on Asylum in the Republic of Albania, No. 121/2014*

41 Xhaho A., Tandilli A., *Vulnerable Asylum Seekers and Irregular Migrants in Albania: Trends, Challenges, and Policy Solutions*, Institute for Democracy and Mediation, June 2019, p. 8.

42 Guideline 293/2015 ‘On procedures for the treatment of foreign nationals with irregular residence in the territory of the Republic of Albania’.

43 Xhaho A., Tandilli A., *Vulnerable Asylum Seekers and Irregular Migrants in Albania: Trends, Challenges, and Policy Solutions*, Institute for Democracy and Mediation, June 2019, p. 9.

44 Art. 26, Law on Asylum in Albania.

45 Art. 22-23, Law on Asylum in Albania.

46 New Law on Asylum and Temporary Protection of 2018, Serbia. Available at: <https://www.refworld.org/docid/6050d9c24.html>.

47 Sardeli, J., 2017. *From Temporary Protection to Transit Migration: Responses to Refugee Crises along the Western Balkan Route* EUI Working Paper RSCAS, p. 13 / Law on Asylum (Art. 36-38).

48 The Western Balkans – Frontline of the migrant crisis, EPRS, 2016, p. 5. Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS\\_BRI\(2016\)573949\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS_BRI(2016)573949_EN.pdf)

49 Available at: <https://help.unhcr.org/serbia/applying-for-asylum-in-serbia/>

50 EPRS, 2016. *op.cit.*, p. 5.

51 Available at: <https://help.unhcr.org/serbia/refugees-integration-rights-and-obligations/>

52 Law on International and Temporary Protection of Foreigners, “Asylum Law” (as amended in 2018) in Montenegro, available at: <https://www.refworld.org/docid/48650f132.html>

Firstly, relevant changes include the 'intention to seek asylum which means the law provides that *'the intention to apply for international protection by third-country nationals or a stateless persons can be done during the checks at the border crossing point.'*<sup>53</sup> After submitting a statement of intention, foreigners seeking international protection have fifteen days time in order to submit an application for international protection to the Ministry.<sup>54</sup>

Another relevant law provision is the handover of the reception system from the Ministry of Labour and Social Welfare to the Ministry of Interior.<sup>55</sup> The law also indicates the provision of a Transit Centre at the border with Albania as well as the provision of individual integration plans for those granted international protection.<sup>56</sup>

**Bosnia and Herzegovina (BiH):** The law on asylum of Bosnia and Herzegovina 2016,<sup>57</sup> provides all the specificities and issues related to asylum in the country such as: the authorities responsible for its implementation, principles, conditions, and procedure for granting the status of 'refugee', the status of 'subsidiary protection,' rights and obligations of asylum-seekers, refugees and aliens under subsidiary protection and other relevant principles when it comes to international protection.

In addition, the law regulates the eligibility for a subsidiary protection for individuals who do not meet the requirements to obtain the refugee status but there are grounds for believing that, if returned to their origin country, they would be exposed to *"severe violation of his/her human rights and fundamental freedoms"*.<sup>58</sup> In addition, the law lays down the specificities for the temporary protection in cases there is a flux migration in the borders.

When it comes to asylum procedures application, the authorities responsible for receiving application are the BiH border police or the organizational units to the Service as defined by the article 31<sup>59</sup>. A specificity in this

regard is that BiH is the only country that practices the detention of asylum seekers for those that do not have a valid documentation at the time of arriving<sup>60</sup> while for those that have expressed their intention to seek asylum while present in the territory are expelled regardless of their status.<sup>61</sup>

**Kosovo:** The Law on Asylum of Kosovo regulates the conditions and procedures for granting the status of refugee, and other system protections as defined in the law, as well as the rights and obligations of applicants, those with the refugee status and persons who are granted subsidiary or temporary protection.<sup>62</sup>

When it comes to application procedure, Department for Citizenship, Asylum and Migration within the MIA (DCAM) is the authority responsible for "the decision-making at the first instance on an application for international protection".<sup>63</sup> According to the law, the application by foreign citizens can be submitted at the time of entry into the country, when crossing the borders, in a police station or at DCAM. <sup>64</sup> After expression of intention to apply for international protection, applicant must "be registered with the competent authority, and is obliged to appear in front of the competent authority within seventy-two (72) hours".<sup>65</sup>

Specificity for Kosovo is that after decision made by the DCAM, asylum seekers are transferred at the Center for Asylum Seekers which operates within the framework of DCAM. And from there, they are being informed of their rights and duties and the "procedure for determination of international protection status".<sup>66</sup> Same as the case of Montenegro, the law also foresees the possibility of accelerated procedures carried on by DCAM as indicated at the article 60 of the law.

53 Art. 34.

54 Art. 35.

55 Art. 8.

56 Law on Asylum. <https://www.unhcr.org/see/wp-content/uploads/sites/57/2019/03/UNHCR-Montenegro-2018-Factsheet.pdf>. Art. 8, Law on Asylum

57 *Bosnia and Herzegovina: Law on Asylum*, 11/2016, 19 February 2016. Available at: <https://www.refworld.org/docid/58b575084.html>

58 Art. 22., Law on Asylum 2016 BiH.

59 Art. 31., Law on Asylum 2016 BiH.

60 Art. 33., Law on Asylum 2016 BiH.

61 Zitanova, K., *op.cit.*, p. 30.

62 Kosovo: *Law on Asylum of the Republic of Kosovo* No 06/L-026 [Serbia], 15 May 2018, available at: <https://www.refworld.org/docid/5bf2ac0b4.html> [accessed 24 October 2021]

63 Art. 49 - Kosovo: *Law on Asylum of the Republic of Kosovo* No 06/L-026 [Serbia], 15 May 2018, available at: <https://www.refworld.org/docid/5bf2ac0b4.html> [accessed 24 October 2021]

64 Art. 52/1. Kosovo: *Law on Asylum of the Republic of Kosovo* No 06/L-026 [Serbia], 15 May 2018, available at: <https://www.refworld.org/docid/5bf2ac0b4.html> [accessed 24 October 2021].

65 Art. 52/2. Kosovo: *Law on Asylum of the Republic of Kosovo* No 06/L-026 [Serbia], 15 May 2018, available at: <https://www.refworld.org/docid/5bf2ac0b4.html> [accessed 24 October 2021].

66 Art 54 Kosovo: *Law on Asylum of the Republic of Kosovo* No 06/L-026 [Serbia], 15 May 2018, available at: <https://www.refworld.org/docid/5bf2ac0b4.html> [accessed 24 October 2021].

# 4

## METHODOLOGICAL CONSIDERATIONS

As a preamble to this section, we discuss some methodological considerations regarding the use of statistical data that the present study relies on. We have faced a difficulty to integrate the numerical data: diverging figures depending on the sources. We are aware that the migration issue constitutes a major political dimension for the countries facing it, giving frequently rise to willful manipulations to minimize the issue by revealing low ratios, far short of the reality. Furthermore, asylum seekers who are present in a territory not for settling but for transit purposes, offer a possibility of not including them in the overall statistics, knowing that the EU external border nearby the Western Balkans is largely closed to them.

Therefore, we have chosen to gather the data issued from international organizations this study is based on statistics gathered from the World Bank which subcontracts data to the UN Refugee Agency – United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migrations (IOM). In addition, depending on the elements searched, we could not obtain the data for the same timeframe thus, in certain cases, the chronological limits of the figures are narrower.

An initial point of observation of the data gathering is the low number of refugees and asylum seekers, where Serbia is an exception. In fact, since the 2015 refugee

crisis, the Western Balkan countries found themselves in the front line of absorbing the flows and being located on the famous “Balkan route”, one of the main migratory paths into Europe. A low number of refugees may only be explained when put into perspective with the number of migrants recorded on the territory of each of these countries during the same timeframe.

Another challenge which should be defined in this preamble, before getting to the heart of our analysis, is the differentials of the chronological limits from 2014 to 2019 and the fragmented data available.

This part starts with a statistical data on the number of refugees, asylum seekers, and migrants in the Western Balkans. It will further study the thorny issue of asylum applications and refugee flows without omitting the estimates of illegal flows for which, European Border and Coast Guard Agency (Frontex Agency) provides us with an estimate prior to dealing with an underlying question which may be related to a paradox: Western Balkan citizens seeking refugee status within the European Union.

There has been a legislative evolution of the Western Balkan countries on the issue of refugee reception motivated by an intention to align with the EU standards in the perspective of future integration.

## 5

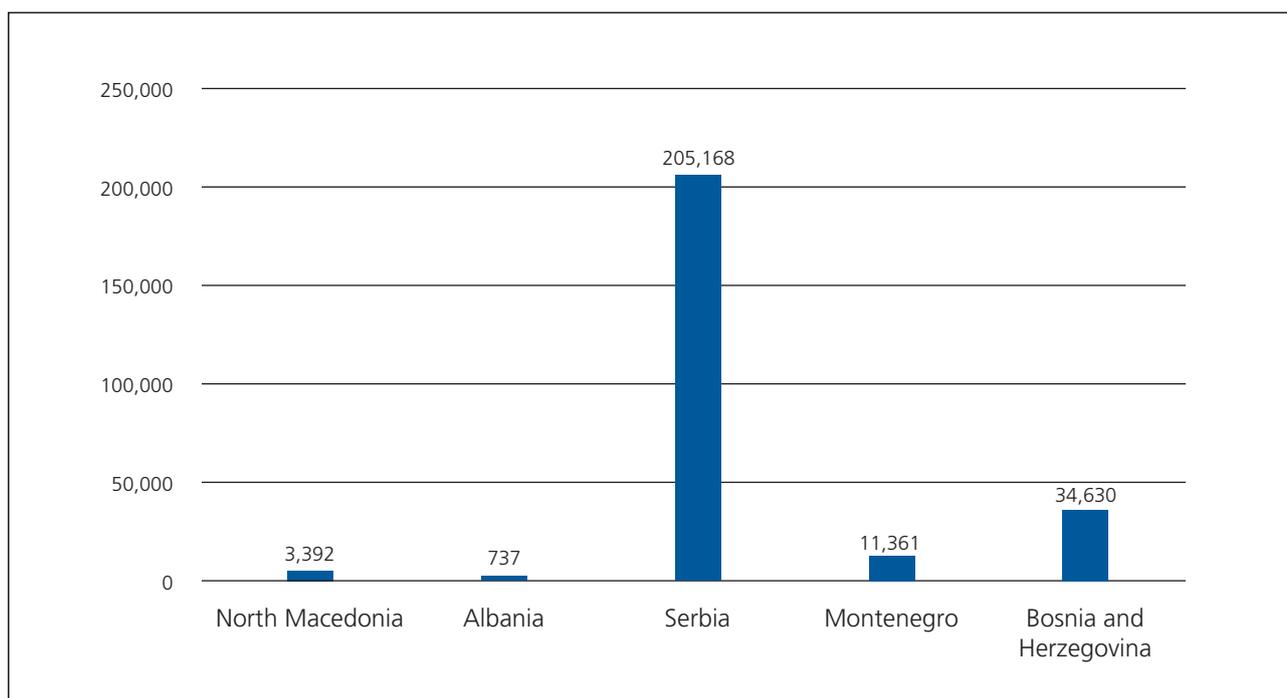
## COUNTRY MEASURES FOR ASYLUM SEEKERS AND REFUGEES: REFUGEES' CUMULATIVE GLOBAL APPROACH

We have chosen to introduce the number of refugees in the Western Balkans, which offers an overview of the dynamics of new migratory reception applied in the region<sup>67</sup> from 2014 to 2019 (the chronological timeframe at the heart of our research).

comprehensive cumulative refugees' number in five of the six countries of the region. This is the reason why we made this choice of a "fictitious accumulation" carried out according to a common methodology for the five countries<sup>68</sup>.

Figure 1.

**Cumulative refugees' number in the Western Balkans<sup>69</sup> (2014 to 2019).<sup>70</sup>**



Since March 2020, the numbers of refugees or asylum seekers have drastically dropped due to the governmental measures on the confinement of population or at least, severe travel restrictions applied over a large part of the world. Therefore, the following figure introduces a

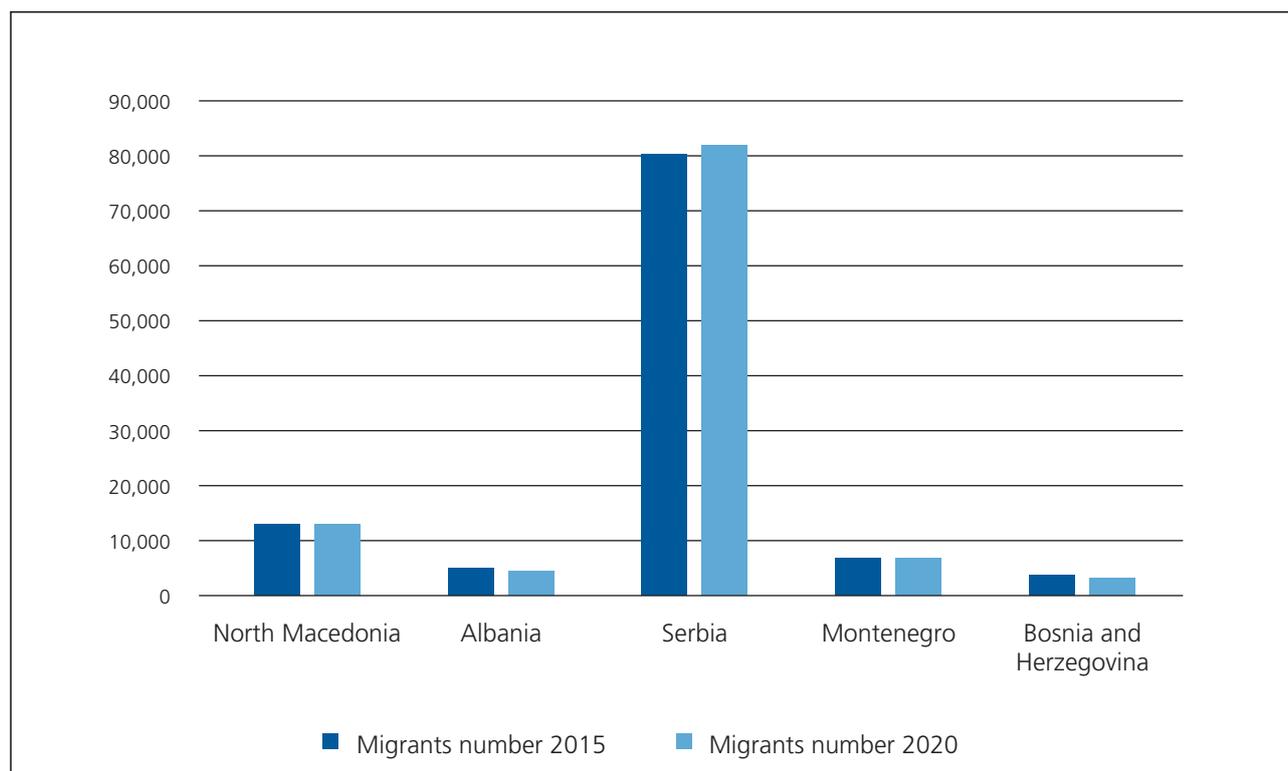
68 Refugee population by country or territory of asylum from the World Bank. Available at: <https://data.worldbank.org/indicator/SM.POP.REFG?end=2019&locations=AL&start=1992&view=chart>. These statistics have been subcontracted from UNHCR

69 This figure offers a proportional representation of the reception in the Western Balkan countries between 2014 and 2019.

70 Refugee population by country or territory of asylum from the World Bank. Available at: <https://data.worldbank.org/indicator/SM.POP.REFG?end=2019&locations=AL&start=1992&view=chart> These statistics have been issued from UNHCR.

67 The data on Kosovo is missing.

Figure 2:  
**Migrant's number between Western Balkan countries in 2015 and in 2020.<sup>71</sup>**



In this figure, we identify two countries which stand out with regards to the number of refugees present on their territories: Serbia and, to a lesser extent, Bosnia-Herzegovina. As shown, there is a glaring disparity between Serbia and the other western Balkan states with a cumulative number of refugees reaching 205,168 over this period. Furthermore, Bosnia-Herzegovina reaches 34,600 refugees. A number also obtained by adding the data of the World Bank over this time frame.

Finally, we see Montenegro with 11,361 refugees, North Macedonia with 3,392 refugees and Albania with 737 refugees. These data show us a stark contrast or even a numerical imbalance that cannot be explained only from a demographic perspective.

Parallel to the number of the comprehensive overview of the present refugees, it is essential to emphasize the number of migrants present in the region in order to evaluate the occurrences or similarities might appear. This data was issued from the International Organization for Migrations which, unlike the data of the World Bank, it is not provided by year but by five-year intervals. Thus, we have chosen two comparative figures of the Western Balkan countries. One for 2015 and the second for 2020 to provide an overview of the dynamic's evolutions at work on the volumes of migrants present in these countries.

This figure shows the number of migrants present in five Western Balkan countries in 2015. The number of migrants present in Serbia largely predominates the number present in the region. Only North Macedonia stands very slightly out with more than 130,000 present migrants. In the remaining three countries, Albania, Montenegro and Bosnia and Herzegovina, the numbers are well below 100,000. As a reminder, the year 2015 corresponds to the "peak" of migration crisis which hit Europe.

With more than 820,000 migrants present on its soil, Serbia largely has the highest number of migrants in comparison to other Western Balkans countries, followed by North Macedonia with more than 130,000 migrants present on its territory, Montenegro with 71,700 migrants, Albania with 52,000 migrants and Bosnia-Herzegovina, with 38,600, show us a glaring disparity within this regional group. This disparity does not fully match the order of the number of refugees as seen in the first part of this study while validating a trend: Serbia is again far ahead of its neighbours. The following figure shows the same picture, but for the year 2020.

This figure shows the number of migrants present in the Western Balkan countries for the year 2015 and 2020. It is interesting to note that there is not much difference from. The "stocks" presented are the same, with a marginal evolution for Serbia as we give in details in the following figure superposing the two sets of data. This seems to show a form of stagnation of migratory presence in

71 IOM – 2015/2020 Migration Data Portal. [https://www.migrationdataportal.org/international.data?i=stock\\_abs\\_&t=2020&cm49=8](https://www.migrationdataportal.org/international.data?i=stock_abs_&t=2020&cm49=8)

various countries of the Western Balkans according to the figures provided by UNHCR.

This comparative figure of migratory volumes in the Western Balkans, shows us an almost perfect overlap between 2015, the most significant year of the migration crisis and 2020. However, the result shows that there is no major change to be noted between these two years. One of the explanations that we could move forward to justify this factual situation is the reception of several European countries in 2015, first and foremost Germany, which has absorbed an undeniable part of the applicants awaiting access to the European Union, which certainly smoothed out the flow in the next years.

Moreover, the comparison of the number of refugees and the number of migrants in the territory of Bosnia and Herzegovina provides us with a paradox. As we showed

in the previous section, devoted to the national laws on the refugees of various countries of the Western Balkans, Bosnia and Herzegovina certainly has the harshest provisions regarding asylum seekers or, more broadly, to migrants. It should be noted that it is the only country whose law provisions require the imprisonment for the individuals not in possession of the required documents when crossing the border. Moreover, this country has been criticized by high-level EU officials in recent years for several breaches of the principles of human dignity. However, based on the World Bank data,<sup>72</sup> Bosnia Herzegovina is the second highest, after Serbia, in the ratio of the number of refugees from the number of migrants from the Western Balkans.

We will now look at the asylum applications and the refugee flows present in the region. For this, UNHCR as well as Frontex agency provide us with some enlightening indications as shown by the following figures.

---

72 Refugee population by country or territory of asylum from the World Bank. Available at: <https://data.worldbank.org/indicator/SM.POP.REFG?end=2019&locations=AL&start=1992&view=chart>. These statistics have been subcontracted from UNHCR

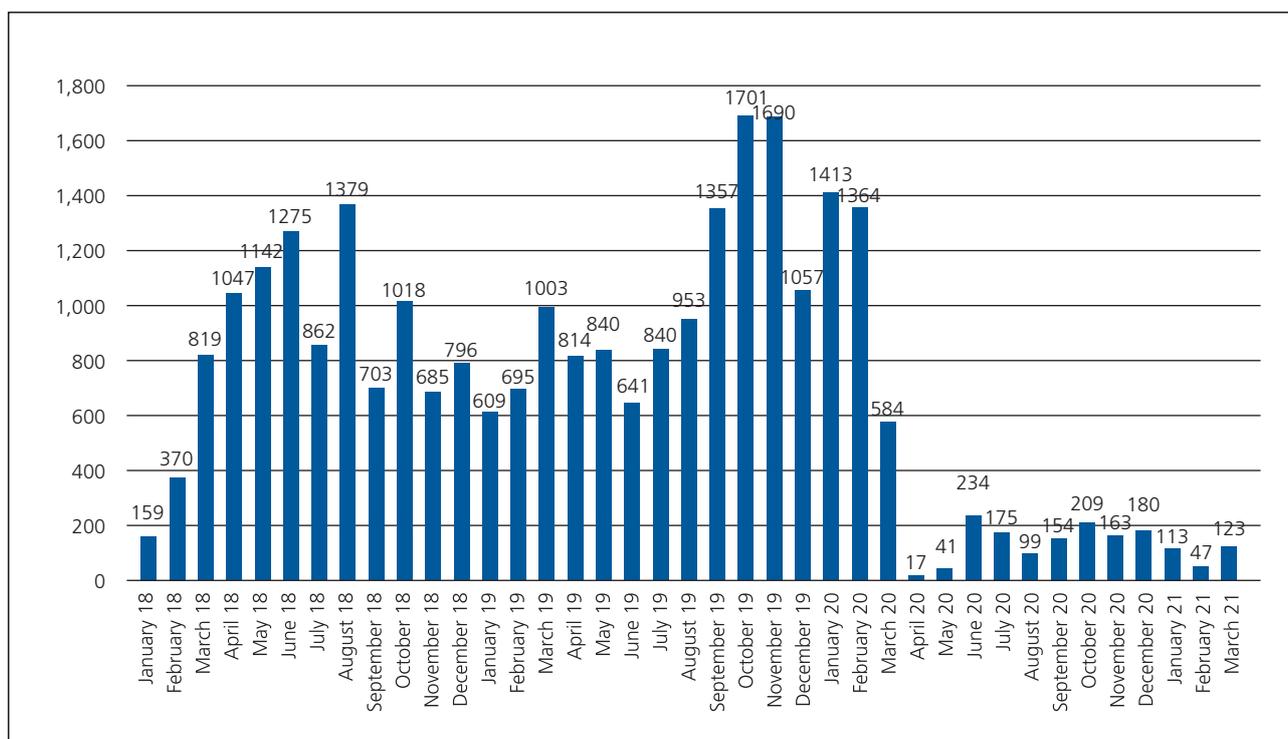
# 6

## ASYLUM APPLICATIONS AND REFUGEE FLOWS

This section addresses the issue of asylum applications within the Western Balkans for the following figures, the data available from UNHCR dates from 1st January 2018 to 31st March 2021, the most recent up to date. Some countries were able to provide some data, particularly Bosnia and Herzegovina, however, there were some discrepancies with the figures used by the international bodies. We have therefore chosen to focus on these precise figures once again.

According to UNHCR, a total of 27 351 asylum applications have been received in the Western Balkan countries between January 2018 and March 2021. Such raw data is put into perspective in Figure 4 by integrating a key element in comparison, namely the recognition of the right to asylum. Figure 4 presents the number of asylum applications and the number of asylum grants per year.

Figure 3. **Monthly asylum applications in Western Balkans (2018-2021).<sup>73</sup>**



73 UNHCR United Nations High Commission for Refugees. Western Balkans Asylum Statistics: [https://reliefweb.int/sites/reliefweb.int/files/resources/RRSEE-AsylumStat-Monthly%20and%20Historical\\_Historical\\_20210531\\_0.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/RRSEE-AsylumStat-Monthly%20and%20Historical_Historical_20210531_0.pdf)

Figure 4:  
**Number of asylum applications and asylum grants in Western Balkans between January 2018 and March 2021.**<sup>74</sup>

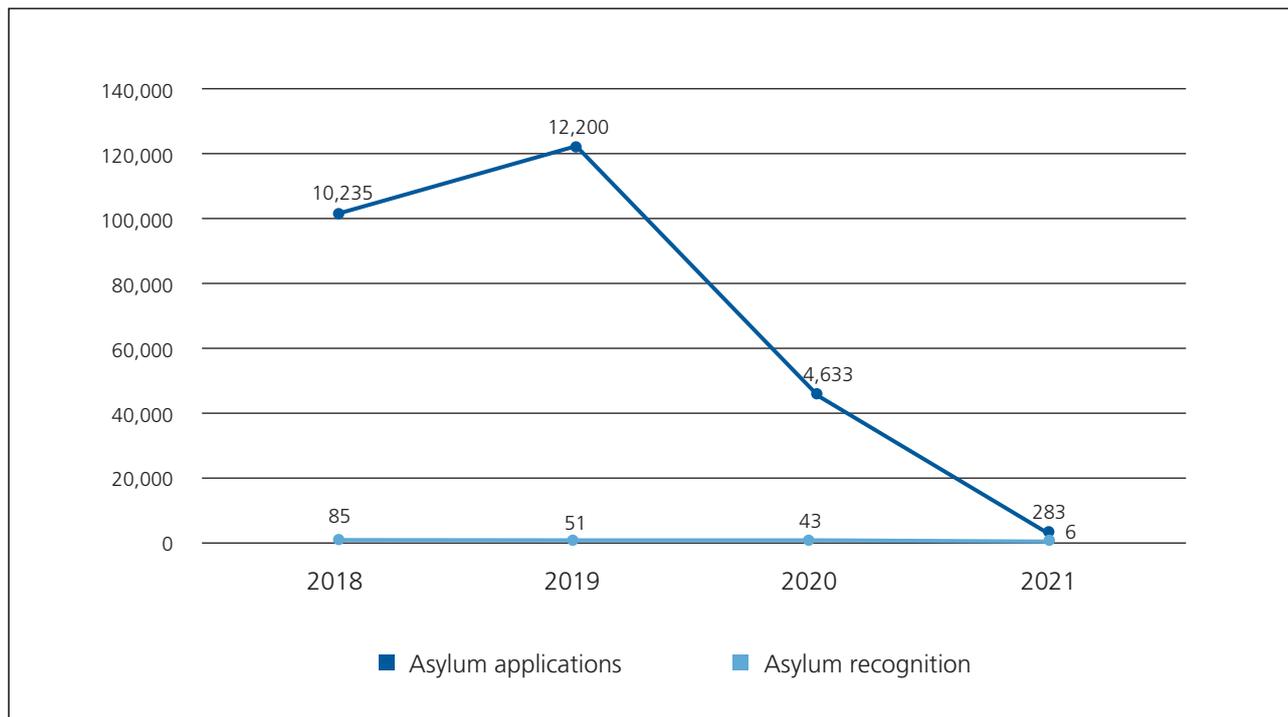
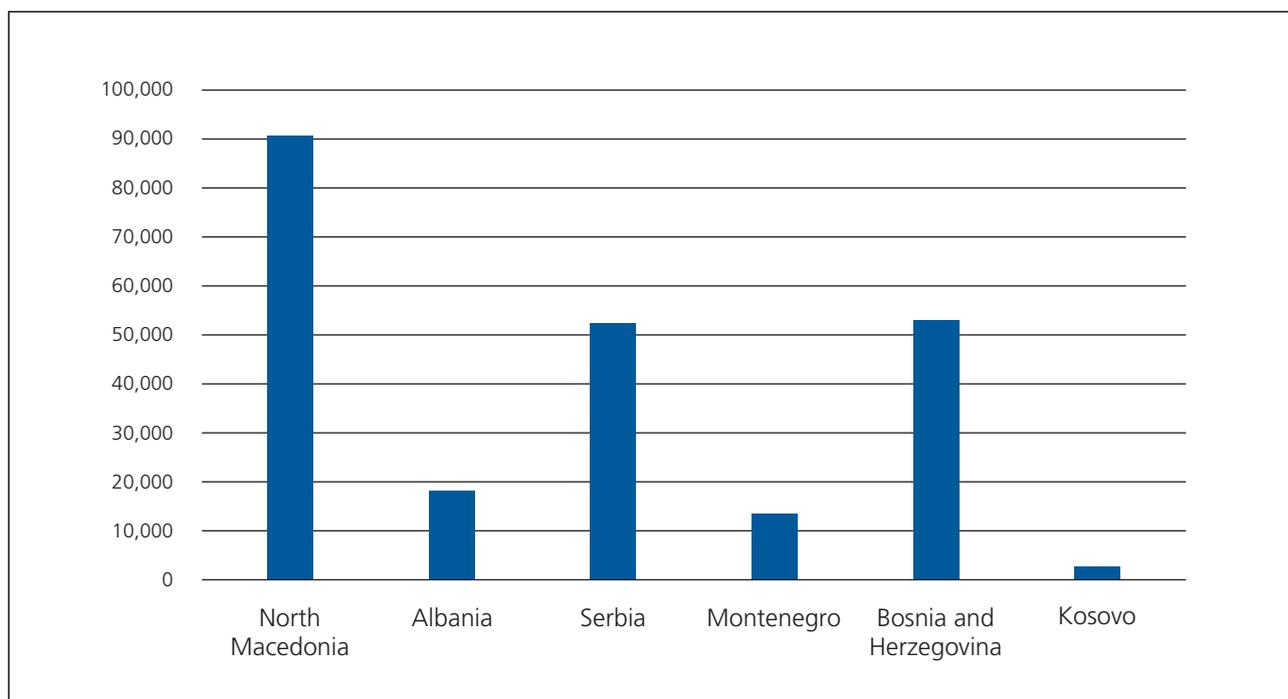


Figure 5.  
**Number of new arrivals in Western Balkans per country between 2017 and 2019.**<sup>75</sup>

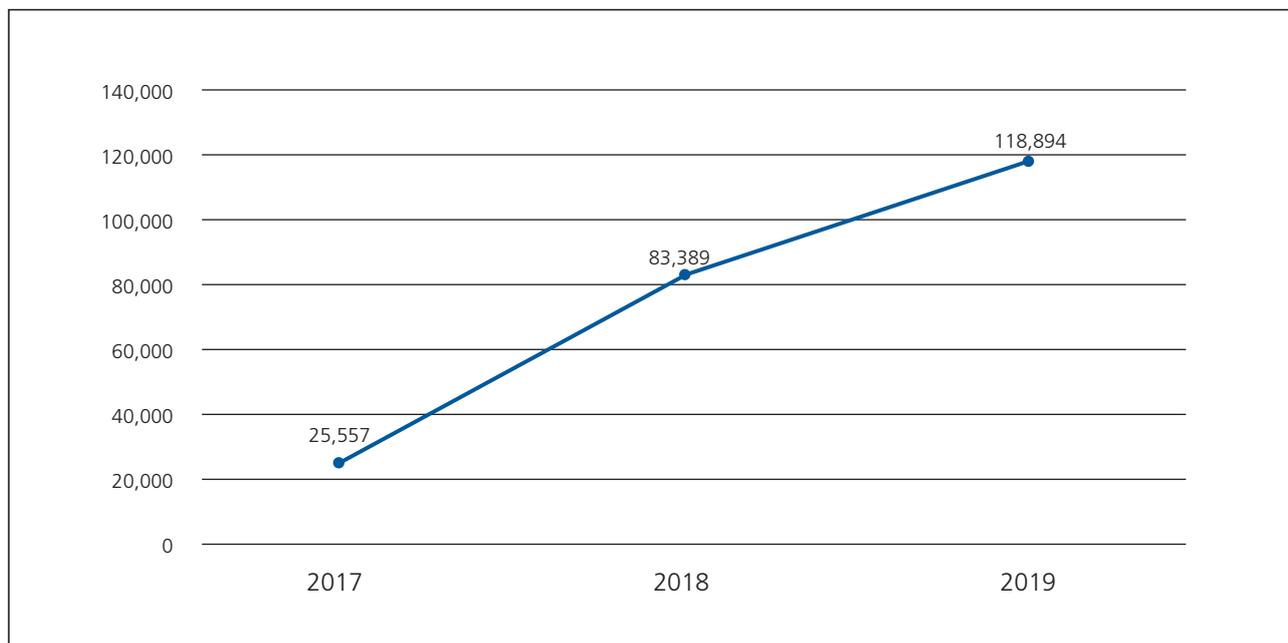


<sup>74</sup> UNHCR – Ibid : [https://reliefweb.int/sites/reliefweb.int/files/resources/RRSEE-AsylumStat-Monthly%20and%20Historical\\_20210531\\_0.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/RRSEE-AsylumStat-Monthly%20and%20Historical_20210531_0.pdf)

<sup>75</sup> UNHCR – Western Balkans – Refugees, Asylum seekers and other mixed movements as of end December 2019 : <https://data2.unhcr.org/fr/documents/download/73832>

Figures 6.

**Number of new arrivals in Western Balkans between 2017 and 2019 per year.<sup>76</sup>**



The data issued from UNHCR spectacularly shows the difference between the number of applications and the number of grants, in the six Balkan countries (including Kosovo). While in 2020 the applications' number is mechanically decreased due to Covid-19 pandemic, the number of refugees remained very low but stable, regardless of the economic situation. Now, we will look at the new arrivals in these 6 territories between 2017 and 2019.

We have chosen to use the same data in two separate figures. The first by country, extended over the entire period, and the second by the global number per year. This figure shows the number of new arrivals in the Western Balkans between 2017 and 2019, thus a period of 3 years. In this figure representation by country, we see three countries standing out in terms of the number of arrivals: Northern Macedonia, then Bosnia and Herzegovina and finally Serbia. Albania, Montenegro, and Kosovo have significantly lower arrival rates. These three countries, on the entry route to the European Union, absorb more of these entries. Indeed, the hypothesis

of favorable reception conditions for migrants does not seem to be the one to be favored to the extent that, while Serbia and Northern Macedonia have amended their national legislation according to the EU Acquis and provide a 72-hour residence permit enabling a formal asylum application to be lodged, Bosnia and Herzegovina continue to apply more drastic reception conditions towards migrants. Now, we will look at the entry of the refugees into these countries by year.

These two figures show us the same data in different representations. The second indicates the overall number of new arrivals per year. Alongside the three countries standing out in terms of the number of arrivals, we can see an increasing progression of arrivals over three years with a tripling between 2017 and 2018. In 2019, entries still increase with almost 120,000 new arrivals in these six countries. Such entries echo Figure 4 regarding the number of asylum applications. Indeed, we can note a link between the increase of arrivals in 2018, 2019 and the increase of asylum applications during the same timeframe.

<sup>76</sup> Ibid. <https://data2.unhcr.org/fr/documents/download/73832>.

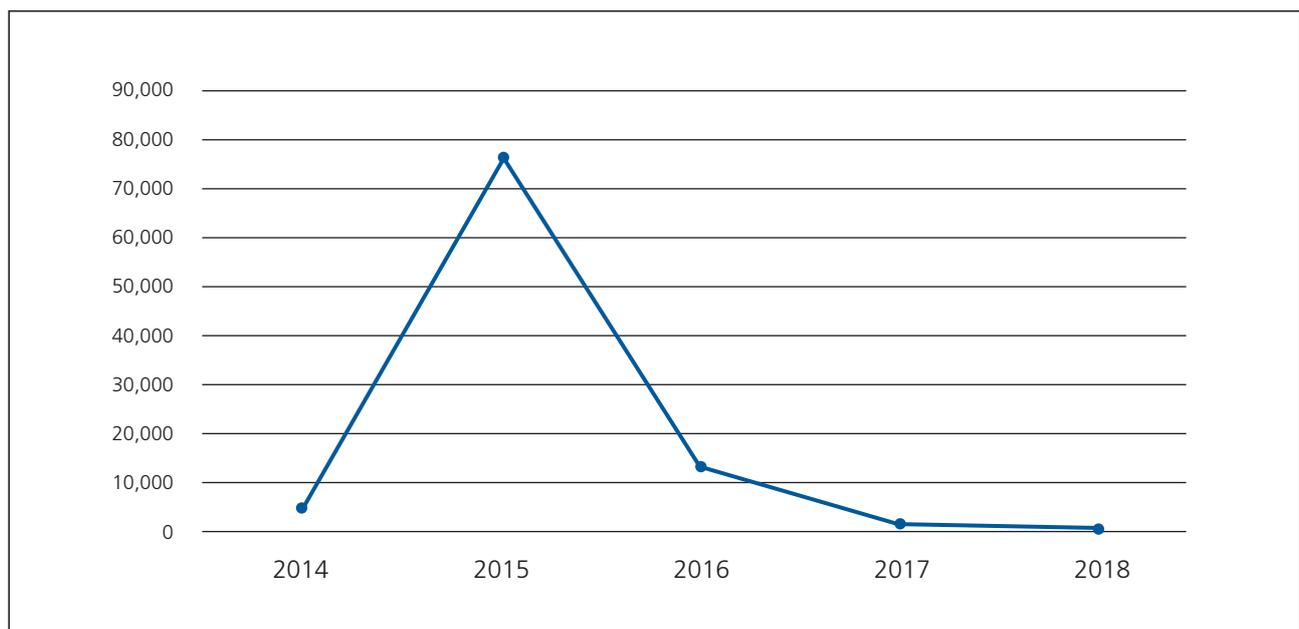
## 7

## ESTIMATE OF ILLEGAL FLOWS THROUGH THE BALKAN ROUTE

It should be noted that the Western Balkan countries are primarily a route for the refugees coming from the Middle East fleeing their countries to seek a better future in the European Union. However, the tightening of control measures at external borders and the reinforcement of the resources allocated to Frontex agency to carry out its mission led to the phenomena of “clandestine”. The refugees passed through the Balkan countries to enter in the EU via smuggling networks. Therefore, it is difficult to obtain precise figures for this phenomenon. However, Frontex agency gives us in their public statistical data an estimate of these illegal crossings, which we have transcribed into the figure below.

These data from Frontex<sup>78</sup> provide us with a good estimate of the flows through the Balkan route to the European Union. More concretely, we observe a peak in 2015 with more than 760 000 crossings and to a lesser extent, a second peak in 2016 with more than 130 000 estimated crossings, which correspond to the paroxysm of the migration crisis. In total, almost one million illegal crossings are suspected on the Balkan route (an axis placed under high surveillance by the European agency as it is the only land access route to the European Union). In parallel with our focus on the legislative developments concerning the reception of refugees in the Balkans, we were interested in the migratory movements. As mentioned in the preamble, this is an interesting paradox

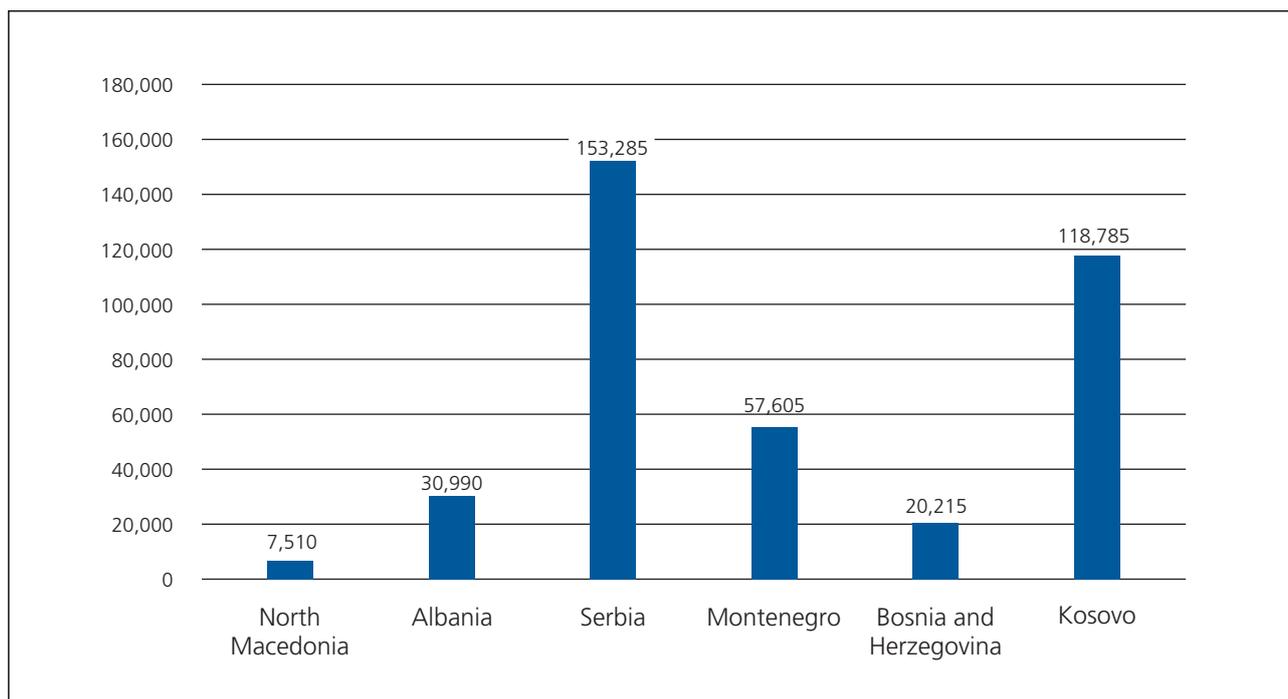
Figure 7.  
**Estimated illegal crossings on the Balkans Road (2014-2018).<sup>77</sup>**



<sup>77</sup> Frontex, [en ligne], Migratory route - Western Balkans Route, <https://frontex.europa.eu/we-know/migratory-routes/western-balkan-route/> (page consultée le 15 juillet 2021)

<sup>78</sup> Cf. Note 3

Figure 8.

**Asylum applicants the from Western Balkans to European Union (2014-2018).<sup>79</sup>**

to the extent that some countries on the way to integration into the European Union and asylum territories, see a certain number of their citizens seeking asylum within the European Union. For this reason, we have chosen to present an analyse the first asylum applications of Western Balkan citizens.

Thus, this figure shows the asylum applications filed within the European Union by citizens of the Western Balkans between 2014 and 2018. This figure, in addition to providing a necessary perspective between the European Union and the Western Balkan countries destined to join the Union in the long term, shows us that a certain number of citizens from these six countries are themselves seeking asylum in the EU. It would be interesting in the future to analyze this specific topic and the reasons for these applications for asylum, the discriminatory reasons invoked to claim access to it.

This brings us to the last point that we wanted to address in this study, that of the evolution of the number of refugees within the European Union as well as the number of global asylum applications. Indeed, many asylum seekers in the EU arrived via the Balkan route, and the European institutions and member countries remain vigilant about the reception conditions of these countries regarding refugees coming to their soil to seek security and protection. This is attested, for example, by the complex situation regarding the conditions of reception and access to asylum applied in Bosnia and Herzegovina, which has been subject to particular attention from the European authorities, especially with regards to the undignified material conditions.

Therefore, it seemed crucial to us to briefly put these figures into perspective with those of the increase in the number of refugees in the European area.

<sup>79</sup> Eurostat, [en ligne], *Asylum applicants by type of applicant, citizenship, age and sex - annual aggregated data 2014-2018 (rounded)*, <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do> (page consultée le 29 juillet 2021).

## 8

## THE EUROPEAN UNION AND IMMIGRATION: DEVELOPMENTS BETWEEN 2014 AND 2019

Hit hard in 2015 by the migration crisis, the European Union was put to the severe test between respecting its fundamental principles on the one hand and, on the other, a public opinion increasingly hostile to the massive reception in many member states.

These migrants coming either from Africa by sea or from the Middle East via land sought to reach the European Union, and essentially the West. Although the Union was for a while overwhelmed and was unable to move forward as an organized unit on this point, with quite a few member countries refusing to distribute quotas, it nonetheless welcomed on its territory a certain number of migrants.

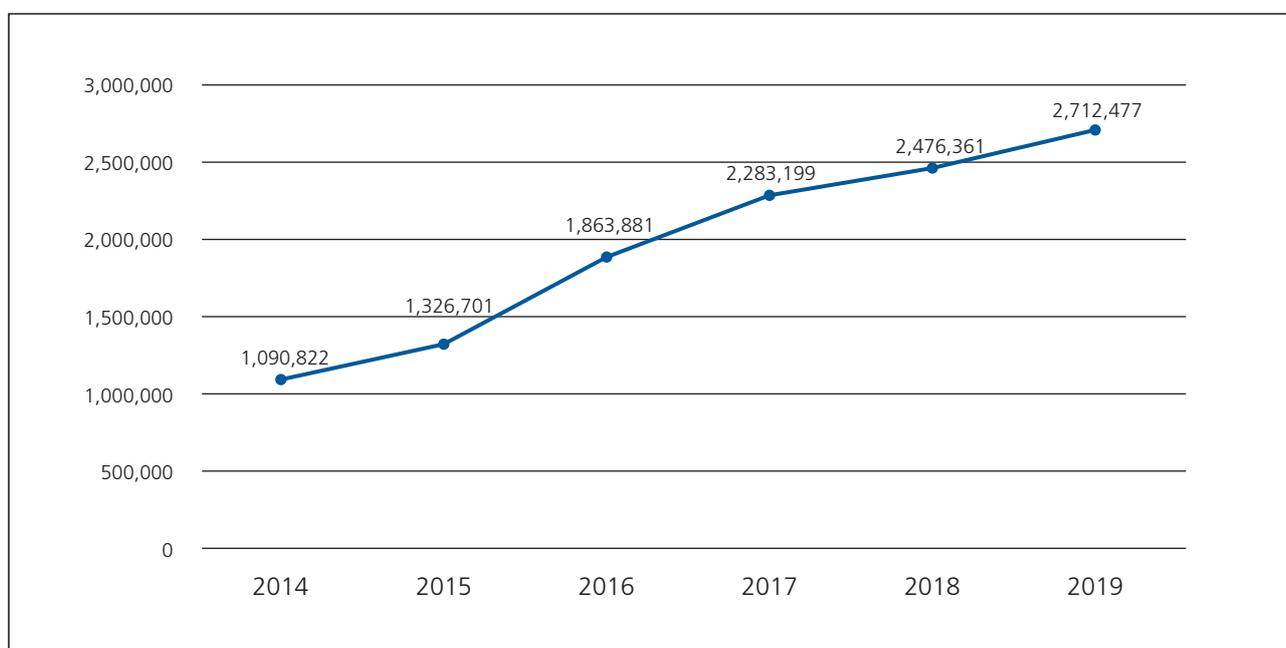
These were either refugees or subsidiary protection cases as shown in Figure 9 below.

We can see in this figure the evolution of the number of refugees in the European Union from 2014 to 2019. A growing evolution quite considerably increased after 2015 and the migration crisis. The number of refugees in the EU in 2019 exceeds 2.7 million spread over all 28 member countries (the United Kingdom still being a member at that time).

The European Union will sign agreements with Turkey, in exchange for funding, which is going to keep nearly three

Figure 9.

**Evolution of the number of refugees' evolution in the European Union (2014-2019).<sup>80</sup>**



<sup>80</sup> European Parliament, [en ligne], *Evolution of asylum seekers and refugee number within the European Union 2014-2019*, [https://www.europarl.europa.eu/infographic/welcoming-europe/index\\_fr.html#filter=2014](https://www.europarl.europa.eu/infographic/welcoming-europe/index_fr.html#filter=2014) (page consultée le 29 juillet 2021)

Figure 10.

**Number of asylum applicants in the European Union (2014 -2019).<sup>82</sup>**

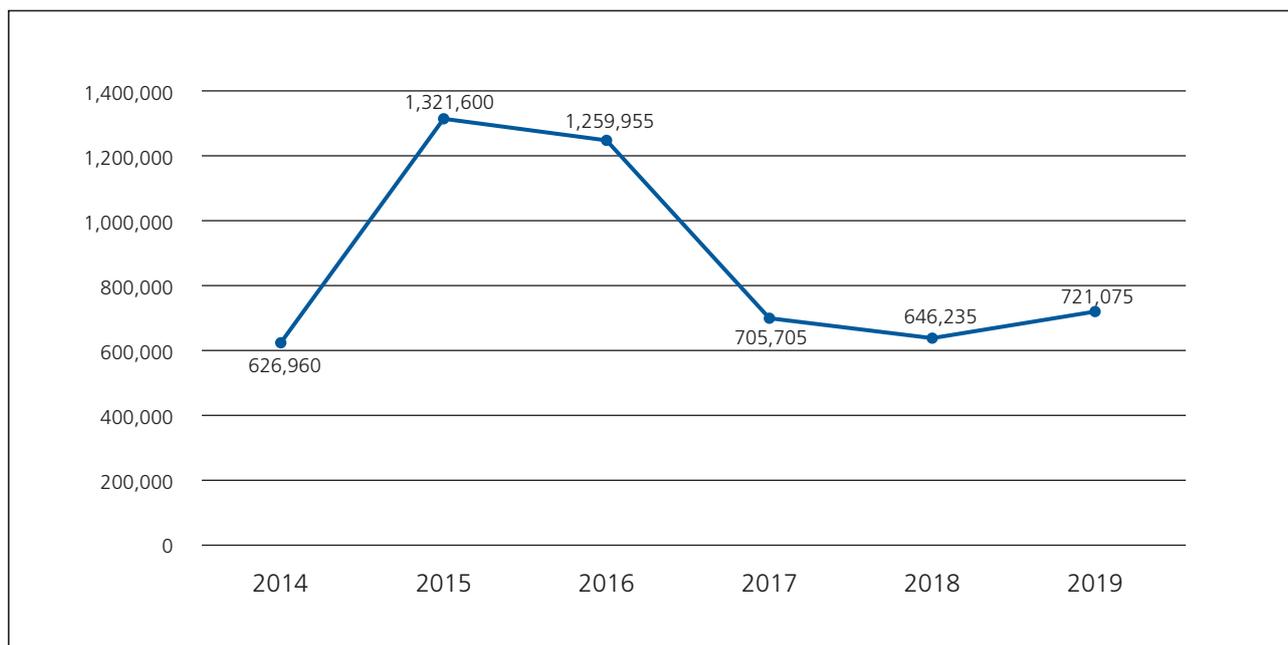
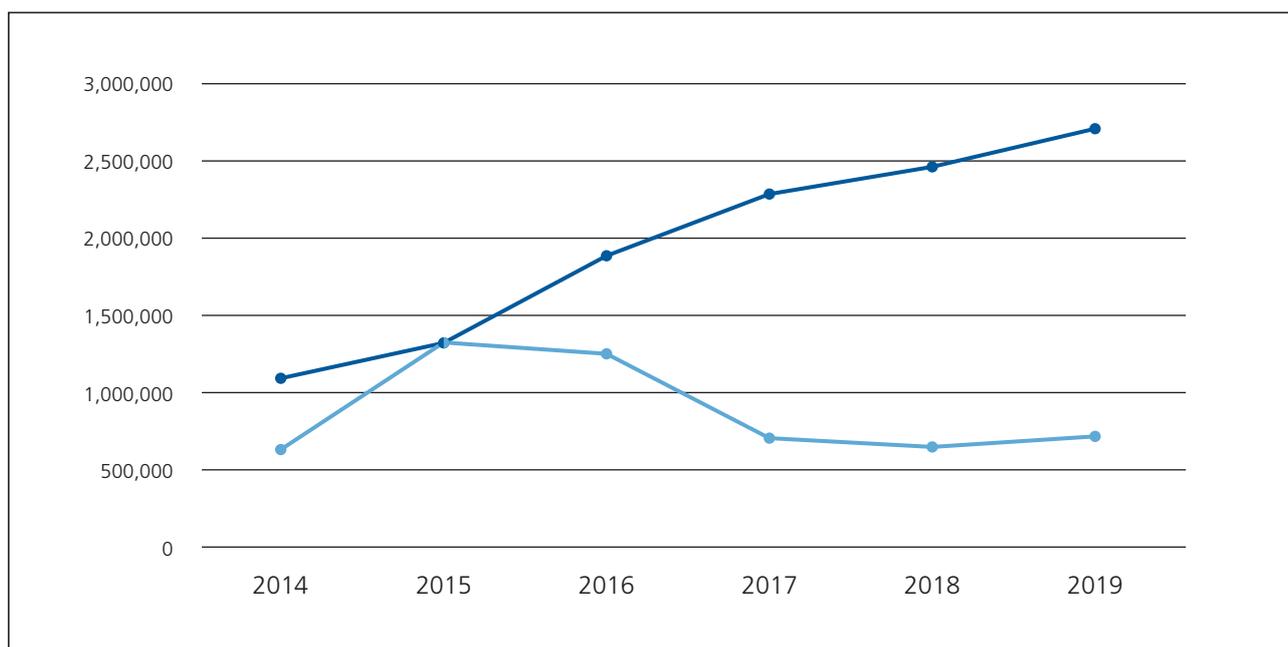


Figure 11.

**Comparison between refugees' number and asylum applicants' number in European Union – 2014-2019.<sup>83</sup>**



million migrants on its soil. A colossal number that became an argument for political pressure on both the EU and the Western Balkan countries, which would be in the front line in the event of a massive wave from Turkey.<sup>81</sup>

Finally, we will look at the number of formal registrations of asylum applications within the European Union during the same period of time.

This figure shows the number of asylum applications filed in the EU MSs from 2014 to 2019. In contrast to the previous figure, we see a large peak in 2015 with more than 132 000 people and in 2016 with more than

81 European Council, EU-Turkey statement, 18 March 2016, <https://www.consilium.europa.eu/fr/press/press-releases/2016/03/18/eu-turkey-statement/>, consulted on the 10 of June 2021

82 European Parliament, [en ligne], *Evolution of asylum seekers and refugee number within the european Union 2014-2019*, [https://www.europarl.europa.eu/infographic/welcoming-europe/index\\_fr.html#filter=2014](https://www.europarl.europa.eu/infographic/welcoming-europe/index_fr.html#filter=2014) (page consultée le 29 juillet 2021)

83 European Parliament, [en ligne], *Evolution of asylum seekers and refugee number within the european Union 2014-2019*, [https://www.europarl.europa.eu/infographic/welcoming-europe/index\\_fr.html#filter=2014](https://www.europarl.europa.eu/infographic/welcoming-europe/index_fr.html#filter=2014) (page consultée le 29 juillet 2021)

125 000 people. These two years correspond to the peak of the migration crisis. While the number of applications remains quite high in the following years, it is almost halved with an average around 70 000 people from 2017 to 2019.

Furthermore, as we will see in the following comparison, as the procedures leading to refugee status are sometimes quite long, it is logical that this increase in applications in 2015 and 2016 should lead to an increase in the number of refugees in the following years.

We can observe the evolution of the number of refugees in the European Union between 2014 and 2019 and the evolution of the number of asylum applications. This last

figure overlaps these two data in the form of a graphical curve to give us a common representation of these two indicators. Here we see the peak in asylum applications in 2015 and 2016, resulting in an exponential increase in the number of refugee status granted within the European Union, while at the same time seeing a marked decline in asylum applications between 2016 and 2017 and then a stagnation until 2019.

It seemed important to take this time to present the European situation in order to present our study to the Union, whose integration for the Western Balkan countries constitutes a first-order political horizon in their respective political agendas.

## 9

## CONCLUSION

Given their strategic geographical position at the EU doors, we can see data confirming that the Western Balkans, in the period 2014-2020, faced a massive influx of migrants and asylum seekers. This influx was not differentiated by countries, but it has increased in general over the period.

Although there are national disparities, we have seen that these countries have decided to face up to the situation by taking their share of the reception. Some of these countries, such as Albania, have a long tradition of reception, but these new flows have required a forced adaptation in order to deal with an issue on a scale not experienced since the Second World War. This is particularly the case for Serbia, where we have seen the large share of refugees and migrants present on its territory which largely dominates the other countries of the Western Balkans, followed to a lesser extent by Bosnia and Herzegovina and Northern Macedonia.

An interesting point to highlight in these concluding remarks is that all the other Balkan countries have adopted legislation relating to the reception of refugees in line with the *Acquis Communautaire*, except for Bosnia and Herzegovina, the only country that does not currently have the status of candidate country for European integration. However, the rate of recognition of asylum remains relatively low in comparison with the number of applications made. Thus from 2018 to 2020,

the number of applications reached tens of thousands where the number of grants of this status is only in tens.

Moreover, being the “Balkan route”, the gateway of the European Union, these States also face the “illegal crossings” that the European Union’s external border control and security agency (Frontex) is trying to quantify. Thus, we considered it would be useful to include that data directly from the European body which, despite the difficulty to quantify, it offers us a certain estimation whose peak in 2015 followed by 2016, clearly indicates that during these two years, corresponding to the peak of the « so-called » period of migration crisis, an estimated one million refugees took the Balkan route.

This study thus showed in one hand the ratios of refugees within the Western Balkans and in another hand the number of migrants present in their respective territories and its evolution over the course of time. Another aspect that we were able to explain concerns the flows of people trying to reach the European Union and passing through the strategic axis. Finally, we considered it essential to address two aspects, that of Western Balkan nationals, themselves seeking asylum and the question of migration trends within the European Union during these years. Our study is directly related to the EU given the central aspect of this theme in European policies since 2015 and the strategic place occupied by this area.

## REFERENCES

- Armela Xhaho and Alma Tandilli**, *Vulnerable Asylum Seekers and Irregular Migrants in Albania: Trends, Challenges, and Policy Solutions*, Institute for Democracy and Mediation, June 2019.
- Albania**: *Law No. 10/2021 on Asylum in the Republic of Albania* [Albania], 1 February 2021. Available at: <https://www.refworld.org/docid/60533c8c4.html>.
- Bosnia and Herzegovina**: *Law on Asylum* [Bosnia and Herzegovina], 11/2016, 19 February 2016. Available at: <https://www.refworld.org/docid/58b575084.html>.
- Eurostat**, [en ligne], *Asylum applicants by type of applicant, citizenship, age and sex - annual aggregated data 2014-2018 (rounded)*, <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do> (page consultée le 29 juillet 2021).
- European Parliament**, [en ligne], *Evolution of asylum seekers and refugee number within the European Union 2014-2019*, [https://www.europarl.europa.eu/infographic/welcoming-europe/index\\_fr.html#filter=2014](https://www.europarl.europa.eu/infographic/welcoming-europe/index_fr.html#filter=2014) (page consultée le 29 juillet 2021).
- European Border and Coast Guard Agency**.
- Frontex**, [en ligne], *Migratory route - Western Balkans Route*, <https://frontex.europa.eu/we-know/migratory-routes/western-balkan-route/> (page consultée le 15 juillet 2021).
- IOM** – 2015/2020 Migration Data Portal. [https://www.migrationdataportal.org/international.data?i=stock\\_abs\\_&t=2020&cm49=8](https://www.migrationdataportal.org/international.data?i=stock_abs_&t=2020&cm49=8).
- Kosovo**: *Law on Asylum of the Republic of Kosovo No 06/L-026* [Serbia], 15 May 2018. Available at: <https://www.refworld.org/docid/5bf2ac0b4.html>.
- Law on Asylum and Temporary Protection (from 2003, as amended in 2016, and superseded by 2018 Law on International and Temporary Protection)* in **North Macedonia**, 11 April 2016. Available at: <https://www.refworld.org/docid/53072d144.html>.
- Montenegro**: *Law on International and Temporary Protection of Foreigners, "Asylum Law" (As Amended in 2018)* [Montenegro], 29 December 2016. Available at: <https://www.refworld.org/docid/48650f132.html>.
- Sardeli, J.**, 2017. *From Temporary Protection to Transit Migration: Responses to Refugee Crises along the Western Balkan Route* EUI Working Paper RSCAS
- Bazerkoska B. J.**, 2018. The refugee relocation system in EU and its implications to the countries on the Western Balkans route: the aftermath of the flawed reception conditions in the EU, *La Revue des droits de l'homme*, 13 [Online], available at: <http://journals.openedition.org/revdh/3392>
- Zitnanova, K.**, *Refugee Protection, and International Migration in the Western Balkans*, UNHCR, March 2014, available at: <https://www.unhcr.org/5375c9ab9.pdf>
- Oruc N., Sand R., Santic D.**, *The Western Balkan Migration Route (2015-2019)* Analytical Report, International Centre for Migration Policy Development (ICMPD), March 2020, p. 7, available at: <https://www.pragueprocess.eu/en/migration-observatory/publications/document?id=289>
- Šalamonn N.K.**, 2016. *Asylum Systems in The Western Balkan Countries: Current Issues*, *International Migration*, 54(6): 151–163.
- Kilibarda, P.**, 2017. *Obligations of transit countries under refugee law: A Western Balkans case study*, *International Review of the Red Cross*, 99(1): 211–239. [https://international-review.icrc.org/sites/default/files/irrc\\_99\\_13.pdf](https://international-review.icrc.org/sites/default/files/irrc_99_13.pdf)
- Refugee Protection and International Migration in the Western Balkans Suggestions for a Comprehensive Regional Approach* **UNHCR**. Available at: <https://www.unhcr.org/531d88ee9.html>
- Refugee population by country or territory of asylum from the **World Bank**. Available at: <https://data.worldbank.org/indicator/SM.POP.REFG?end=2019&locations=AL&start=1992&view=chart>. These statistics have been issued from **UNHCR**.
- Refugee population by country or territory of asylum from the **World Bank**. Available at: <https://data.worldbank.org/indicator/SM.POP.REFG?end=2019&locations=AL&start=1992&view=chart>
- Serbia**: *2018 Law on Asylum and Temporary Protection* [Serbia], 22 March 2018. Available at: <https://www.refworld.org/docid/6050d9c24.html>
- The UN Refugee Agency** – United Nations High Commissioner for Refugees. International Organization for Migrations: <https://www.iom.int/fr>
- The Western Balkans – Frontline of the migrant crisis*, **EPRS**, January 2016. Available at: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS\\_BRI\(2016\)573949\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/573949/EPRS_BRI(2016)573949_EN.pdf)
- UNHCR** – Western Balkans – Refugees, Asylum seekers and other mixed movements as of end December 2019. Available at: <https://data2.unhcr.org/fr/documents/download/73832>
- UNHCR United Nations High Commission for Refugees**. Western Balkans Asylum Statistics: [https://reliefweb.int/sites/reliefweb.int/files/resources/RRSEE-AsylumStat-Monthly%20and%20Historical\\_Historical\\_20210531\\_0.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/RRSEE-AsylumStat-Monthly%20and%20Historical_Historical_20210531_0.pdf)
- World Bank**, *Refugee population by country or territory of asylum*. Available at: <https://data.worldbank.org/indicator/SM.POP.REFG?end=2019&locations=AL&start=1992&view=chart>
- Websites**
- <https://help.unhcr.org/serbia/applying-for-asylum-in-serbia/>
  - <https://help.unhcr.org/serbia/refugees-integration-rights-and-obligations/>
  - <https://www.unhcr.org/see/wp-content/uploads/sites/57/2019/03/UNHCR-Montenegro-2018-Factsheet.pdf>



## ABOUT THE AUTHORS

**Teuta Vodo** is a policymaker and researcher with the focus on constitutional studies and EU Law. She has served in several key leading positions such as the International Secretary, the Executive Director, Deputy Minister of Justice in the Albanian government, Policy Advisor in the European Parliament, Academic Researcher in 'Cevipol' in Université libre de Bruxelles, and the 'Center for Socio-Legal Studies' in the University of Oxford. Ms. Vodo is a book and peer-reviewed author of topics such as training for judges and judicial reforms in the EU, secret proceedings, judicial restrictions in the legislature, constitutional studies, political and social analysis of rule of law.

**Alexandre Riou** is a historian specialized in contemporary history of Central Europe. He is the Director of Department of the French Think Tank L'Hétairie focused on European and Foreign Affairs. He holds the position of the Secretary for European and Foreign Affairs for Seine-Maritime's Federation of the French Socialist Party as well as the substitute member of the National Council of Socialist Party. Alexandre holds a degree from Université de Rouen, the Charles's University and Paris I – Pantheon Sorbonne.

## IMPRINT

Fondacioni "Friedrich Ebert" | Rr. "Kajo Karafili" Nd. 14,  
Hyrja 2 kati i I | Tiranë | Shqipëri

Responsible:

**Stine Klapper** | Director of "Friedrich Ebert" Foundation

Tel: 00355 4 22 509 86

[www.tirana.fes.de](http://www.tirana.fes.de)

Programme Coordinator:

**Jonida Smaja**

Friedrich Ebert Foundation publications may not be used for commercial purposes without the written approval of FES.

## REFUGEE LAW AND ITS IMPLEMENTATION IN THE WESTERN BALKANS



Starting from 2015, the Western Balkans faced a massive and increasing influx of migrants and asylum seekers. Despite the national disparities, the Balkan countries have handled the situation by taking their share and dealing with an issue on a scale not experienced since the



Second World War. Nevertheless, the management of migration flows raises serious gaps in institutional structures, asylum procedures and return mechanisms dominated by security concerns. This study shows the number of refugees within the Western Balkans, its evolution over



the course of time and the flows of people trying to reach the European Union through the strategic axis. In conclusion, the study shows that Balkan states implement refugee law only to the extent to which the refugee question is associated by EU refugee agenda.

For more information, please visit:  
<https://www.tirana.fes.de/al/publikime/>