Decoding Balkandac:

Navigating the EU's Biometric Blueprint

Border Violence Monitoring Network

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Executive Summary

This report aims to contextualise recent developments towards the digitalisation of biometric data collection in the Western Balkans into wider shifts in migration policy and data-sharing frameworks at the EU level. In order to achieve this, the report first unpacks the key regulations envisioned under the EU's New Pact on Migration and Asylum and how these are envisioned to operate within EU Member States. Of particular relevance are the legal fiction of non entry in the Screening Regulation, the bolstering of the "safe third country" principle in the Asylum Procedures Regulation, and the obligatory application of accelerated border procedures in all EU Member States. Collectively, they establish a system whereby people on the move are prevented from entering the territory of Member States, subjected to expedited procedures, and returned directly to "safe third countries". This manifests as a legalisation of the pushback process; individual claims will undergo insufficient scrutiny within compressed timeframes and procedural rights, such as access to free legal aid and the suspensive effect of appeals against inadmissabiliy decisions, are not yet guaranteed at the time of writing. Considered collectively, these legal shifts unequivocally obstruct access to the right to asylum within the new regulatory framework.

The shifts constitute a further progression towards EU border externalisation, whereby the responsibility for curbing transit and processing claims is outsourced to third countries. Whilst Turkey and North African countries are commonly cited in this context, this paper instead examines the Western Balkans, offering an often-overlooked case study. The study looks at how externalisation to the Western Balkans is being facilitated and streamlined through the interoperability of biometric databases between these countries and the EU Member States. In order to understand this, the paper first presents the legislation governing data exchange between Member States and third countries, identifying the pertinent actors or Agencies responsible for operationalising such legislation. The paper seeks to contextualise interoperability frameworks within broader trends wherein procedural elements of criminal law are increasingly integrated into administrative migration law, thereby advancing the agenda of criminalising movement both into and within the EU. This dynamic has effectively established a paradigm in which 'irregular entry' or 'irregular stay' is treated as a criminal offence, justifying and normalising a penal logic whereby individuals in transit are subject to detention and expulsion. In turn, databases holding information related to people on the move, asylum seekers and beneficiaries of international protection are becoming increasingly interoperable with databases managing information related to crime and security risks.

To tangentially elucidate the trends of border externalisation, the overlap of criminal and immigration law, and the current policy context at multiple levels within the EU, the Western Balkans is taken as a case study. The Western Balkan states make up key transit countries along the so-called Balkan route. Increased transit along this route in recent years has prompted a corresponding increase in the deployment of EU Agency staff, specifically Frontex, and financial resources to fortify the borders and manage

movement through the countries. One key ongoing development is the development of biometric data collection systems that are modelled off the EURODAC system, allowing for seamless interoperability in the future. In light of the New Pact's emphasis on augmenting returns to "safe third countries", the need to digitalise biometric data collection in the Western Balkans for sharing 'hits' to facilitate returns becomes evidence. The interoperability of the biometric databases represents a critical milestone in the EU's trajectory towards border externalisation, streamlining the process of returns.

Whilst the Western Balkan countries are considered "safe", and are candidates for EU membership, they have not yet acceded, meaning they are not bound by the same safeguards as Member States concerning reception conditions, asylum and return procedures, and border management operations. The EU is capitalising on their comparative freedom by allocating funding to the Western Balkan countries with the intention of bolstering collaborations with the primary countries of origin of people on the move. In this manner, EU Member States can return people on the move to "safe third countries" in the Western Balkans, which, in turn, are empowered to return them to their countries of origin. This entire process is undergoing digitalisation through interoperable databases to enhance the efficiency of these operations.

List of Acronyms

AI	Artificial Intelligence
AIA	Artificial Intelligence Act
APR	Asylum Procedures Regulation
BiH	Bosnia and Herzegovina
BVMN	Border Violence Monitoring Network
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CEAS	Common European Asylum System
CHF	Swiss Franc
CIR	Common Identity Repository
CJEU	Court of Justice of the European Union
CRRS	Central Repository for Reporting and Statistics
CSO	Civil Society Organisation
EASO	European Asylum Support Office
ECRE	European Council on Refugees and Exiles
ECRIS-TCN	European Criminal Records Information System on Third Country Nationals
ECtHR	European Court of Human Rights
EDPS	European Data Protection Supervisor
EDRi	European Digital Rights Initiative
EEAS	European External Action Service
EFTA	European Free Trade Agreement
EIBM	European Integrated Border Management
ESP	European Search Portal
ETIAS	European Travel Information and Authorisation System
EU	European Union
EUAA	European Union Asylum Agency
EUCFR	European Union Charter of Fundamental Rights

EUCRIM	European Criminal Law Association's Forum
Eurodac	European Asylum Dactyloscopy Database
Europol	European Union Agency for Law Enforcement Cooperation
FRA	Fundamental Rights Agency
FRIA	Fundamental Rights Impact Assessment
Frontex	European Border and Coast Guard Agency
GDPR	General Data Protection Regulation
EIBM	European Integrated Border Management
ICMPD	International Center for Migration Policy Development
IOM	International Organisation for Migrations
IPA	Instrument for Pre-Accession
JHA	Justice and Home Affairs
JOs	Joint Operations (between Frontex and national authorities)
LEAs	Law Enforcement Authorities
MID	Multiple Identity Detector
MIS	Migration Information System
NCBM	National Center for Border Management
NCC	National Coordination Center
OCC	Operational Coordination Chamber
OHCHR	Office of the High Commissioner for Human Rights
RCD	Reception Conditions Directive
RAMM	Regulation on Asylum and Migration Management
SAR	Search and Rescue
sBMS	Shared Biometric Matching System
SCO	Safe Country of Origin
SEM	State Secretariat for Migrations

SIENA	Secure Information Exchange Network Application
SIS	Schengen Information System
STC	Safe Third Country
VIS	Visa Information System
WB-RAN	Western Balkans - Risk Analysis Network

Contents

Border Violence Monitoring Network

The Border Violence Monitoring Network (BVMN) is a horizontal network of organisations working to document pushbacks, collective expulsions and police violence along the European Union's borders in the Western Balkans, Greece and Turkey since the formal closure of the route in 2016. Pushbacks are informal cross-border expulsions of individuals or groups to another country (without due process). This lies in contrast to the term "deportation", which is conducted in a legal framework, and "readmission" which is a formal procedure rooted in bilateral and multilateral agreements between states. Readmissions of persons who have expressed their wish to seek asylum or who have expressed fear of being readmitted to the country they transited through are illegal. In the past five years, pushbacks have become a central, if unofficial, pillar of the migration regime of EU countries and elsewhere. The collection of data on illegal pushbacks, police violence and detention is done by a consortium of independent, voluntary field-experts who are part of, or cooperate with humanitarian support groups united through the BVMN.

The New Pact on Migration and Asylum

The end of 2023 is set to be a salient moment in EU migration policy and politics. With political deals relating to the New Pact on Migration and Asylum[1] and the Artificial Intelligence Act,[2] rushing to a close, the way people on the move are managed in the EU is set to change drastically. The New Pact foresees a system whereby all new arrivals to EU Member States are subject to a 'screening procedure' to determine whether their requests for international protection are founded or not. From there, those with unfounded claims will be subject to accelerated border procedures and funnelled directly into return mechanisms.[3]

Admissibility decisions will be greatly influenced by the expansion of safe country principles in the Pact, which foresees the establishment of an EU-wide list of 'safe countries of origin' (SCOs) and 'safe third countries' (STCs) to extend the application of the principles in Member States. The Returns Directive is also in recast phase, with the Parliament debating their position on the file at the time of writing. As of the end of November 2023, negotiations are on hold, with the European People's Party (EPP) and left coalition of the Greens, the Left and the Socialists and Democrats (S&D) unable to find compromises on key provisions such as the length of detention, the detention of minors, and the suspensive effect of appeal. The latter is of great cause for concern when considered in conjunction with the New Pact; the Asylum Procedures Regulation (APR) foresees accelerated asylum procedures at the border that funnel directly into return mechanisms, if appeals to returns decisions are not suspensive the risk of *refoulement* soars.

The Pact was hailed as a way forward, after a series of 'crises' that saw solidarity between Member States drastically decline, with focus shifting instead to the construction of fences and walls[4] at the external borders and the reintroduction of police checks at Schengen borders.[5] The New Pact, however, does not address this failure of solidarity between Member States. Rather than strengthening provisions for the relocation of asylum seekers as was envisioned in the early phases of Dublin, the Regulation for Asylum and Migration Management (RAMM) envisions that Member States can pay for capacity building in frontline Member States or send money to third countries in place of taking on asylum seekers. 'Solidarity', then, entails financing the

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[1] European Commission. (2020). *What is the New Pact on Migration and Asylum of the EU?*. Available at: https://home-affairs.ec.europa.eu/policies/migration-and-asylum/new-pact-migration-and-asylum_en

[2] European Parliament. (2023, 08 June). *EU AI Act: first regulation on artificial intelligence*. Available at: https://www.europarl.europa.eu/news/en/headlines/society/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence

[3] The Border Violence Monitoring Network. (2023, 28 March). *Briefing on the New Pact Votes: Screening Regulation and Asylum Procedures Regulation*. Available at: https://borderviolence.eu/reports/briefing-on-the-new-pact-votes-screening-regulation-and-asylum-procedures-regulation/

[4] Dumbrava, Costica. (2022, October). *Walls and fences at EU borders. European Parliamentary Research Service*. Available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733692/EPRS_BRI(2022)733692_EN.pdf

[5] De Somer, Marie. (2019, December). "Schengen and internal border controls". In De Bruycker, Philippe; De Somer, Marie and De Brouwer, Jean-Louis (eds.). *From Tampere 20 to Tampere 2.0: Towards a new European consensus on migration*. Available at: https://www.epc.eu/content/publications/9_Schengen_ad_internal_border_controls.pdf

building of more detention sites and walls at the external borders, or paying for the externalisation of responsibility over a fair redistribution of individuals seeking asylum. This, coupled with the emphasis on returns to third countries, represents a concerning shift in EU migration policy. As BVMN has been documenting since 2017, with over 1,500 testimonies representing the experience of more than 25,000 people collected by the end of 2022,[6] derogations from the right to asylum, among others, in the form of violent pushbacks have proliferated at the borders of Member States. The Commission brought forward the New Pact at the end of 2020 as a 'solution' to these ongoing issues, but instead it locks in extant rights violations, moves unilaterally towards returns, and strengthens plans to externalise the EU's responsibility for managing asylum claims to third countries.

The Artificial Intelligence Act

Simultaneously, steps are being taken to digitalise border and migration management in the EU. Whilst this is supposedly being done in the name of efficiency and to increase the safety of citizens, it gives rise to a host of fundamental rights concerns for people on the move. In 2021, the Commission proposed the Artificial Intelligence Act (AIA),[7] which is set to be the first binding legislation on AI globally. The Act was touted as promoting innovation and 'trustworthy' AI, whilst foregrounding the protection of fundamental rights.[8] However the original text, and the version currently in negotiation between the Council, Commission and Parliament, is not fit for this purpose. The EU and third countries have, for years, been constructing a vast and powerful web of surveillance and tracking at European borders,[9] within the territories of Member States and at their external borders with third countries.[10] These technologies are tested first and foremost at the borders, on people on the move, and have been for years. The AIA is doing very little to address the harms engendered by this; in fact, the few safeguards retained in the Parliament position are now being eroded in the trilogue phase.[11] Border technologies such as surveillance equipment, biometric data collection systems, and migration forecasting tools are set to be legislated for with little to no accompanying safeguards, leaving people on the move with few pathways to redress violations of their rights.

For the purpose of this paper, provisions around large-scale EU databases, biometric identification systems, and a blanket exemption for Law Enforcement Authorities (LEAs) to comply with basic safeguard provisions are important details to note. Co-

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[6] The Border Violence Monitoring Network. (2022). *The Black Book of Pushbacks*. Available at: https://left.eu/issues/publications/black-book-of-pushbacks-2022/

[7] European Parliament. (2023, 08 June). *EU AI Act: first regulation on artificial intelligence*. Available at: https://www.europarl.europa.eu/news/en/headlines/society/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence

[8] For more see the work of the Protect not Surveil coalition: https://protectnotsurveil.eu/

[9] EuroMed Rights. (2023, 10 July). *The (human) cost of Artificial Intelligence and Surveillance technology in migration*. Available at: https://euromedrights.org/publication/the-human-cost-of-artificial-intelligence-and-surveillance-technology-in-migration/

[10] Napolitano, Antonella. (2023, July). Artificial Intelligence: The New Frontier of the EU's Border Externalisation Strategy. *EuroMed Rights*. Available at: https://euromedrights.org/wp-content/uploads/2023/07/Euromed_AI-Migration-Report_EN-1.pdf

[11] The Border Violence Monitoring Network. (2023, 11 May). *AI Act: European Parliament Endorses Protections Against AI in Migration*. Available at: https://borderviolence.eu/reports/ai-act-european-parliament-endorses-protections-against-ai-in-migration/

legislators are pushing to close political negotiations on the file by 5 December 2023, [12] and there are concerns that dangerous loopholes will be introduced in the interest of expediency. The AIA categorises different types of technologies and systems depending on the risks they pose to fundamental rights—the higher the risk, the greater the safeguards, in theory. The Parliament's position held that non-remote biometric identification systems (such as those used for fingerprinting, iris or face scanning), and migration forecasting tools should be classified as high risk. However, it seems these provisions have been lost during trilogue negotiations and neither will be subject to increased safeguards under the AIA. For transparency reasons, the Parliament further envisaged a publicly available database in which all AI systems deployed in the EU would have to register certain details, including the report of the Fundamental Rights Impact Assessment (FRIA) conducted prior to entering the equipment into the EU market. However, the current position on the text envisions a blanket exemption for all LEAs—meaning information regarding any and all technology used at the border and for law enforcement would not be public, resulting in zero transparency about its usage and fundamental rights impacts. Large-scale EU databases such as EURODAC, VIS, ETIAS, among others, are still set to be included in the publicly available database which would increase transparency around which measures are being taken to safeguard fundamental rights during the collection and storage of biometric data. However, the date for their inclusion is currently set as 2030 —a four-year grace period following the two years it will take for the legislation to enter into force. This means vast changes in the way such databases operate and interact with one another can take place prior to the implementation of any transparency requirements.

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[12] Bertuzzi, Luca. (2023, 21 November). *The provisional agenda of the Telecom Council on 5 Dec is out.* [Tweet]. Twitter. Available at: https://x.com/BertuzLuca/status/1726909232195252376?s=20

Contextual Framework

The Overlap of Criminal and Immigration Law

The increased use of detention for people on the move during reception, asylum and return and the use of new technologies to extensively track and surveil racialised communities should be read in the overarching context of the criminalisation and illegalisation of people on the move in the EU. Theorists have described this as a four stage process along the lines of: problematise, demonise, dehumanise, and criminalise.[13] Since the so-called 2015 'refugee crisis', migration has been constructed as a threat to public order and national security in Member States,[14] and the project of fortifying external EU borders has been justified as a means to protect free movement in the Schengen bloc. This can be most recently seen in Croatia's accession to the Schengen zone[15] and the upcoming votes on Romania and Bulgaria at the end of 2023.[16] In all three cases, the Member States sought to prove their commitment to 'defending' the external border in order to accede to Schengen and did so by carrying out violent pushbacks of people on the move and denying their right to asylum.[17] In Greece and Italy, the widespread use of administrative detention measures for managing people on the move is continuously justified using the 'threat to national security and public order' provision under Article 8(3) of the Return Conditions Directive (RCD).[18] Member States are creating new criminal categories of illegal, irregular and undocumented people on the move in order to associate them with numerous crimes and deal with them using penal logic and legal loopholes. In nearly all Member States, irregular entry and/or stay are offences punishable by fines and custodial sentences.[19] Indeed, one of the key debates around the New Pact was whether to refer to people as "illegal migrants" or "irregular migrants" in the legislative texts, despite the fact that entering a Member State to seek asylum is a fundamental right enshrined in the Article 18 of the EU Charter

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[13] Stumpf, Juliet. (2006). The crimmigration crisis: Immigrants, crime, and sovereign power. *The American University Law Review*, 56(2), 367.

[14] Wike, Richard; Stokes, Bruce and Simmons, Katie. (2016, 11 July). Europeans Fear Wave of Refugees Will Mean More Terrorism, Fewer Jobs. *Pew Research Center*. Available at: https://www.pewresearch.org/global/2016/07/11/europeans-fear-wave-of-refugees-will-mean-more-terrorism-fewer-jobs/

[15] European Council on Refugees and Exiles. (2022, 8 December). *Joint Statement: EU admits Croatia to Schengen Without Regard to Abuses at the Border*. Available at: https://ecre.org/joint-statement-eu-admits-croatia-to-schengen-without-regard-to-abuses-at-the-border/

[16] European Parliament. (2023, 12 July). *Bulgaria and Romania should be in Schengen by end of 2023, says Parliament*. Available at: https://www.europarl.europa.eu/news/en/press-room/20230707IPR02431/bulgaria-and-romania-should-be-in-schengen-by-end-of-2023-says-parliament

[17] The Border Violence Monitoring Network. (2022). *The Black Book of Pushbacks*. Available at: https://left.eu/issues/publications/black-book-of-pushbacks-2022/

[18] Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. Available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:en:PDF

[19] European Union Agency for Fundamental Rights. (2014). *EU Member States' legislation on irregular entry and stay, as well as facilitation of irregular entry and stay – Annex*. Available at: https://fra.europa.eu/sites/default/files/fra-2014-criminalisation-of-migrants-annex_en.pdf

of Fundamental Rights.[20] Criminal law norms have been asymmetrically incorporated into immigration law, with the procedural rights and guarantees foreseen in criminal law for citizens being further eroded in the case of people on the move.

Frontex is an EU Agency that acts as a discernable example of how immigration enforcement and criminal law have been merged. Established in 2004 as a Justice and Home Affairs (JHA) Agency, with EU competences to support Member States in pursuing an efficient and uniform level of border control, Frontex has increasingly shifted to act primarily as an EU law enforcement agency. Following the expansion of the EU and the creation of the Schengen zone, Frontex took on the role of coordinating measures relating to the protection of the EU's external borders as a way of facilitating free movement within the bloc.[21] Since then the agencies powers have increased considerably: in 2007 they established Rapid Border Intervention Teams (RABITs), first deployed at the Evros border in 2010, to respond to non-EU nationals trying to enter MS' territory irregularly;[22] in 2008 the newly established EU Returns Directive gave Frontex a key role in returning non-EU citizens to "safe third countries" or "safe countries of origin" with the Frontex budget for returns reaching 53 million euros in 2017;[23] and in 2018 Frontex became the European Border and Coast Guard Agency, strengthening their role in response to the so-called 2015 'crisis'.[24] In April 2020, the powers of Frontex officers were ramped up further as a new regulation laid out provisions for officers to carry and use service weapons, ammunition and other equipment such as firearms, batons, and handcuffs.[25] Corresponding to their increasing power, the budget has also grown exponentially, starting at 19 million euros in its first year of operation, and reaching over 709 million euros in 2022.[26] Frontex officers are increasingly bearing all the hallmarks of a militarised police force, as opposed to a JHA agency, with an exponentially growing budget. When considering this in the context of the controversies that rocked the agency in 2022—namely the leaked OLAF report revealing a culture of bullying and complicity in pushbacks and interrelated rights violations[27]—it becomes all the more concerning.

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[20] European Union Agency for Fundamental Rights. EU Charter of Fundamental Rights, Article 18 - Right to asylum. Available at: https://fra.europa.eu/en/eu-charter/article/18-right-asylum

[21] Frontex. (2016). *General Report* 2015. Available at: https://www.frontex.europa.eu/assets/Key_Documents/Annual_report/2015/General_Report_2015.pdf

[22] Frontex. (2015,10 December). Frontex accepts Greece's request for Rapid Border Intervention Teams. Available at: https://www.frontex.europa.eu/media-centre/news/news-release/frontex-accepts-greece-s-request-for-rapid-border-intervention-teams-amcPjC

[23] Frontex. (2017). Budget 2017. Available at: https://www.frontex.europa.eu/assets/Key_Documents/Budget/Budget_2017.pdf

[24] European Council, Council of the European Union. (2023). *Strengthening the EU's external borders*. Available at: https://www.consilium.europa.eu/en/policies/strengthening-external-borders/

[25] Frontex. Management Board Decision 3/2021 of 15 January 2021 adopting rules for the Executive Director to authorise statutory staff to carry and use weapons, including on mandatory cooperation with the competent national authorities, and ensuring that the conditions for issuing such authorisations continue to be met by statutory staff. Available at: https://www.frontex.europa.eu/assets/Key_Documents/MB_Decision/2021/MB_Decision_3_2021_establishing_rules_to_carry_and_use_weapons.pdf

[26] Frontex. (2022). Budget 2022. Available at: https://www.frontex.europa.eu/assets/Key_Documents/Budget/Frontex_VOBU_2022.pdf

[27] OLAF - European Anti-Fraud Office. (2021). *OLAF Final Report on Frontex*. Available at: https://fragdenstaat.de/dokumente/233972-olaf-final-report-on-frontex/

On September 10, at around 8pm, the respondent crossed the border to Greece together with three other men close to Marasia. They kept walking for 17 days. Close to Drama, they were sleeping in a forest when they were suddenly woken up by six "masked men" (dressed in black, wearing balaclavas) and one man in a blue uniform. One of the masked men held a gun against the respondent's head and asked where they were from, but nobody was beaten. The seven men took the bags, phones and wallets from the group and told them to get into a grey Ford transit. The respondent described that some of them were not speaking Greek but English with each other. When asked for specifics, the respondent explained that the man in the blue uniform appeared not to speak Greek. When asked for more details regarding the uniform, the respondent explained it was bright blue and had "police" written on it (in English). When asked if it carried any flags, the respondent said yes, the flag of the European Union. When shown a picture of the light blue Frontex armbands, the respondent immediately said, "Yes, this blue band with the EU flag."

It is evident that criminal logic is being inappropriately applied to deal with migration and movement in the EU, justifying the insertion of criminal procedures into migration policy, such as detention and security checks. This, in turn, may constitute violations of the right to liberty, to freedom from inhumane and degrading treatment or torture and, eventually, to asylum.

Border Externalisation

Another growing trend in EU migration policy is border externalisation . This refers to a series of endeavours implemented to prevent people on the move from reaching a particular destination, normally an EU Member State. This is done by cooperating with third countries, and sometimes private corporations, who act to deter or form blocks along transit routes, including but not limited to visa restrictions, agreements with transit and origin countries concerning deportations and other modes of forced returns, judicial and economic sanctions on the transport of people on the move, and the deployment of extra-governmental entities for border protection. The New Pact goes a step further by introducing the legal fiction of non-entry. The Screening Regulation argues that people who are apprehended at the borders of external EU Member States, disembarked after Search and Rescue (SAR) operations, or even found undocumented in the territory, will be taken to screening centres at the external borders that are not legally considered to be on the territory of Member States. This represents yet another layer of the externalisation project, as even crossing the border into an EU Member State will no longer equate to an individual having entered the EU. This constitutes another hurdle for individuals seeking to enter the bloc and to ask for international protection.

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[28] The Border Violence Monitoring Network. (2020). Yes, this blue band with the EU flag!. Available at: https://borderviolence.eu/testimonies/september-26-2020-2300-near-orestiada/

On a practical level, research suggests that the border externalisation project is not fit for purpose. Policies of deterrence do not actually reduce movement but instead push people towards more dangerous routes to seek safety and therefore cause more border casualties and fatalities.[29] When considering a rights framework, externalisation calls into question the EU's commitment to the fundamental values of the Charter such as the right to asylum, the right to freedom from torture and inhumane and degrading treatment or punishment, and the right to *non-refoulement*, among others. Nevertheless, these provisions are being bolstered in the new Asylum Procedures Regulation, which envisions the expansion of the 'safe third country' (STC) concept as a way to deem applicants inadmissible, funnel them into accelerated border procedures and subsequently into return mechanisms.

The most visible states that act as external partners to the EU are Turkey and Libya, however Tunisia, Egypt and Morocco have recently become important partners. Bilateral agreements with these states have entailed a litany of human rights abuses, with the EU-Turkey agreement having been criticised since its inception in 2016[30] and even more so now that Turkey has ramped up returns to Syria[31] and Afghanistan,[32] undoubtedly constituting *refoulement*; with the UN's 2023 fact-finding mission to Libya finding the EU complicit in facilitating rights violations on Libyan territory;[33] and most recently with Tunisian authorities expelling asylum seekers to the desert border where at least 27 individuals died this summer.[34] When taking these cases into account, it is clear that these countries are not "safe" and do not have adequate provisions for individuals to effectively seek protection.

Border Externalisation and the Western Balkans

Somewhat underscrutinised yet central partners in the EU's externalisation agenda are the candidate countries in the Western Balkans. The so-called Balkan route is the union of two migratory pathways—the Eastern Mediterranean Route, which leads from Turkey to Greece via the sea, and the Western Balkan Route, which crosses through the Balkan states over land and then through the Member States of Romania, Hungary or Croatia until reaching Western Europe. This route was popularised in 2012[35] but peaked in 2015 during the so-called 'crisis' as it represented the quickest and safest route for people on the move to transit through countries and reach Northern

[29] FitzGerald, David Scott. (2019). *Refuge Beyond Reach: How Rich Democracies Repel Asylum Seekers*.
[30] Human Rights Watch. (2016, 19 April). *EU/Greece: First Turkey Deportations Riddled With Abuse - Text Messages Show Fear, Then Silence*. Available at: https://www.hrw.org/news/2016/04/19/eu/greece-first-turkey-deportations-riddled-abuse
[31] Human Rights Watch. (2022, 24 October). *Turkey: Hundreds of Refugees Deported to Syria - EU Should Recognize Turkey Is Unsafe for Asylum Seekers*. Available at: https://www.hrw.org/news/2022/10/24/turkey-hundreds-refugees-deported-syria
[32] Amnesty International. (2022, 31 August). *Iran/Turkey: Fleeing Afghans unlawfully returned after coming under fire at borders*. Available at: https://www.amnesty.org/en/latest/news/2022/08/iran-turkey-fleeing-afghans-unlawfully-returned-after-coming-under-fire-at-borders/
[33] United Nations Human Rights Office of the High Commissioner. (2023, 27 March). *Libya: Urgent action needed to remedy deteriorating human rights situation, UN Fact-Finding Mission warns in final report*. Available at: https://www.ohchr.org/en/press-releases/2023/03/libya-urgent-action-needed-remedy-deteriorating-human-rights-situation-un
[34] Al Jazeera. (2023, 09 August). *At least 27 people found dead in desert after expulsion from Tunisia: Libya*. Available at: https://www.aljazeera.com/news/2023/8/9/at-least-27-people-found-dead-in-desert-after-expulsion-from-tunisia-libya
[35] Dockery, Wesley, InfoMigrants. (2017, 29 March). *The Balkan route - explained*. Available at: https://www.infomigrants.net/en/post/2546/the-balkan-route--explained

European Member States to lodge their asylum claims. Today, that same route is home to some of the most violent atrocities against people on the move with organised pushbacks, violent evictions, and routine border deaths coinciding with the systematic stripping of individual's right to seek asylum.[36] Since 2019, BVMN has collected five testimonies of pushbacks from Serbia impacting 81 individuals, 26 testimonies from Bosnia and Herzegovina (BiH) impacting 207 individuals, one from Montenegro impacting five people, and one from Kosovo impacting 20 people.[37] It is important to note that these numbers reflect BVMN's presence in the different locations—we do not have teams in either Montenegro or Kosovo, and so the numbers are likely far higher in reality.

> ### *Testimony - Serbia to North Macedonia[38]*
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> Six officers arrived in two blue police vans. At around 16:00, supervised by two of the officers, the respondent was placed in the back of a van with five other men (from Morocco and Tunisia, aged between 20-28 years old). The respondent states that he felt the employees of the camp and the officers worked in conjunction to trick the respondent because they were not driven to another camp, as promised, but instead taken to the Serbia-N. Macedonia border.
>
> They arrived at the border at around 19:00 and were met by two additional police officers and four officers wearing military attire, as well as two unmuzzled dogs. [...] The officers at the border told the transit group, "This is the border," then proceeded to beat them with batons, to kick them, punch them, "everything." The officers encouraged the dogs to attack the group and, as a result, the respondent was bitten on his leg multiple times.

It is on this geographical region that this paper will focus its analysis. With the financial and technical assistance granted to them as accession candidates for the EU, and under the blackmail of that accession, the Western Balkan countries are increasingly cooperating with the Commission and other EU Member States to become holding sites for people on the move as they transit through the so-called Balkan Route. In December 2022, the European Commission released a new EU Action Plan for the Western Balkans[39] which outlines 20 action points on aligning national practices with the asylum acquis in the context of the accession process, and actions to be taken in the EU on topics of borders and migration. The plan focuses in particular on (1) increasing registration and reception capacities in the Balkans with EU support, (2)

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[36] The Border Violence Monitoring Network. (2022). *The Black Book of Pushbacks*. Available at: https://left.eu/issues/publications/black-book-of-pushbacks-2022/
[37] The Border Violence Monitoring Network. Testimonies database. Available at: https://borderviolence.eu/testimonies/
[38] The Border Violence Monitoring Network. (2020, 17 April). *The officers encouraged the dogs to attack*. Available at: https://borderviolence.eu/testimonies/april-17-2020-1900-between-miratovac-srb-and-lojane-mkd/
[39] European Commission. (2022, 5 December). *EU Action Plan on the Western Balkans*. Available at: https://home-affairs.ec.europa.eu/system/files/2022-12/Western%20Balkans_en.pdf

combating smuggling and establishing strict border controls through increased collaboration with EU institutions, and (3) streamlining return practices. This was, in turn, strengthened by the International Organisation of Migration's (IOM)s 2023 update of the Skopje Declaration which concurrently moves towards administrative frameworks, digital solutions, and cooperations with third countries to step up return capabilities in the Western Balkan countries.[40]

The move towards returns to 'safe third countries' (STCs) and 'safe countries of origin' (SCOs) in the New Pact, coupled with an increased focus on returns to countries of origin within the Western Balkan states, is potentially devastating. Western Balkan states have been designated as STCs and therefore could count as the person's first country of asylum. As the APR file is in negotiations at the time of writing, it is still unclear what will constitute an STC. However, the most likely outcome, and the one being pushed by the Council and Commission, is that Member States can decide on the national level how to designate a country as an STC. This would mean that some Member States might simply consider transit through the country enough of a link to return somebody to it.

Currently, only 6 of the 27 Member States actually use the safe country principles,[41] and so the establishment of the EU list will aid the remaining countries to circumvent debate around implementation at a national level and follow suit. This will see the widening and strengthening of the STC provision. This could mean, for example, if people on the move manage to enter an EU Member State such as Austria, Germany, or Italy, and seek to apply for asylum, upon being fingerprinted and shown to have transited through one of the STC in the Western Balkans, they can be returned to that country. However, those states are still only candidates for EU accession, meaning they have not yet met the fundamental requirements to accede to the EU, including compatibility with the Common European Asylum System (CEAS) and the EU Charter of Fundamental Rights. Asylum seekers can then be readmitted back to countries like Serbia and BiH for their asylum claims to be processed, despite the fact that these countries do not have the same legislation for asylum reception conditions, procedures and returns as EU Member States. As this paper will go on to explain, this process is being digitised through an interoperability framework that will make it easier to get 'hits' on individuals and see which states they have transited through via the collection of their biometric data.

In turn, the EU and IOM are bolstering the Western Balkan countries with financial aid to step up their return agreements with countries of origin. As non-EU states, they are not bound by the same obligations and safeguards when deciding how to manage returns. One key example of this can be found in Serbia. In spite of the EU suspending

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[40] International Organisation for Migration. (2023). *Advancing the Skopje Declaration: Action Plan for Sustainable Migration Governance in the Western Balkans 2023-2025*. Available at: https://bih.iom.int/sites/g/files/tmzbdl1076/files/documents/2023-06/sarajevo-migration-dialogue-2023-action-plan-final.pdf

[41] European Union Agency for Asylum. (2023). EUAA Expert Panel The use of safe country concepts in the jurisprudence of European and national courts and tribunals. Available at: https://euaa.europa.eu/sites/default/files/2023-06/2023_06_Background_Note_Expert_panel_Safe_Country_Concepts.pdf

returns to Afghanistan in light of the Taliban's takeover,[42] Serbia is still pursuing return agreements with Afghanistan as of 2023.[43] Therefore, returns from Member States to Serbia as an STC could, in turn, result in chain *refoulement* to Afghanistan. Just as Turkey and Libya before them, the Western Balkan states will exist as hotspots for outsourcing the detention and deportation of people on the move in service of the EU, aiding the circumvention of fundamental rights guaranteed under EU legislation. [44]

It is pertinent to understand why the Western Balkan states would accept this role as the external hotspot of the EU, which is likely to overwhelm their already insufficient reception capacities for people on the move. Statewatch, among others, have drawn this up to 'accession blackmail.' Since the Thessaloniki Summit in 2003, all the Western Balkan states have been identified as potential candidates for EU membership. In line with this, they have access to financial and technical assistance via the Instruments for Pre-accession (IPA), which will be expanded on further in the following sections. Along with the pre-accession funding, the promise of full accession upon proof of fortifying the borders and 'managing migration' in an orderly manner contributes to the countries' willingness to play this role. This has been somewhat frustrated since 2022 when Russia's full-scale invasion of Ukraine resulted in some legislators seeking to immediately accede Ukraine to the EU[45] despite the long list of Western Balkan candidate countries who have been waiting far longer. It is unclear yet how this will play out, but the Commission's reports on EU Enlargement highlighted further progress on "migration management capacities" in the Western Balkans.[46] The candidate status of the Western Balkan countries places them in a unique position that the EU has been profiting from, in order to turn these countries into outsourced hotspots for 'migration management.'

[42] Statewatch. (2021, 14 September). *European Commission: suspend deportations to Afghanistan, but deport Afghans to other "third countries."* Available at: https://www.statewatch.org/news/2021/september/european-commission-suspend-deportations-to-afghanistan-but-deport-afghans-to-other-third-countries/
[43] European Commission. (2023, 08 November). Commission Staff Working Document - Serbia 2023 Report - Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - 2023 Communication on EU Enlargement policy. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_695_Serbia.pdf
[44] Statewatch. (March 2023). *Submission to European Commission consultation on "security-related information sharing.* Available at: https://www.statewatch.org/analyses/2023/submission-to-european-commission-consultation-on-security-related-information-sharing/; Infomigrants. (2022, 2 August). *Bosnia and Herzegovina deports Pakistani migrants.* Available at:
https://www.infomigrants.net/en/post/42318/bosnia-and-herzegovina-deports-pakistani-migrants
[45] European Council, Council of the European Union. (2023). *Ukraine.* Available at: https://www.consilium.europa.eu/en/policies/enlargement/ukraine/
[46] European Commission. (2023). European Neighbourhood Policy and Enlargement Negotiations (DG NEAR). *Strategy and Reports.* Available at: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/strategy-and-reports_en

One key mechanism for achieving the returns of people on the move from Member States to Western Balkan states is facilitating the interoperability of databases so that 'hits' can be shared across them. This would allow for the Member States to determine which STC the individual has transited through in the Western Balkans and subsequently facilitate their return to that country. It is imperative to understand and therefore lay out the legal basis for this, as the provisions are complex and encompass several, different, legislative instruments which make up the EU's interoperability framework.

Introduction to Interoperability

An understanding of interoperability—the framework being established around it, the role of the recast EURODAC directive and the proposed changes to other legislative instruments—is crucial in illuminating the role of the Western Balkans in the EU's return policies. Whilst EU institutions have been pursuing an EU-wide travel intelligence architecture for years,[47] a number of agreements are being resolved at the time of writing that will have far-reaching consequences for how entry to and return from the EU are managed. It is necessary to unpack the current state of play in order to clarify what interoperability between databases in the Western Balkans on regional and EU levels would mean in practice and what implications this would have on the fundamental rights of people on the move.

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The interoperability regulations would apply to the following existing or proposed databases:

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[47] eu-LISA. (2020, 27 May). *Forum on the implementation of the new architecture for EU information systems for borders, migration and security.* Available at: https://www.eulisa.europa.eu/Newsroom/PressRelease/Pages/Forum-implementation-new-architecture-EU-information-systems-borders-migration-security.aspx

Entry/Exit System (EES)[48]	An automated IT system for registering travellers from third countries, both short-stay visa holders and visa exempt travellers, each time they cross an EU external border.
European Asylum Dactyloscopy Database (EURODAC)[49]	A large-scale IT system that has helped with the management of European asylum applications since 2003, by storing and processing the digitised fingerprints of asylum seekers and irregular migrants who have entered a European Member State.
European Criminal Records Information System on Third-Country Nationals (ECRIS-TCN)[50]	A new database containing information on non-EU nationals who have been convicted in one or more EU Member States.
European Travel Information and Authorisation System (ETIAS)[51]	A new form of travel authorisation, linked to a traveller's passport for visa-exempt nationals travelling to EU countries.
Schengen Information System (SIS)[52]	A database containing alerts on third-country nationals refused entry into or stay in the Schengen area, individuals subject to deportation, and persons or objects sought for police or judicial purposes. It is also used indirectly by countries in Southeastern Europe/third countries.
Visa Information System (VIS)[53]	A centralised IT system that assists member states in sharing visa-related data. It performs biometric matching, primarily of fingerprints, for identification and verification purposes.

[48] Directorate for Migration and Home Affairs of the European Commission. *Entry-Exit System*. Available at: https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/smart-borders/entry-exit-system_en

[49] eu-LISA. *Eurodac*. Available at: https://www.eulisa.europa.eu/Activities/Large-Scale-It-Systems/Eurodac

[50] eu-LISA. (2019, 23 September). *ECRIS-TCN, European Criminal Records Information System - Third Country Nationals*. Available at: https://op.europa.eu/en/publication-detail/-/publication/6731cfaa-de78-11e9-9c4e-01aa75ed71a1/language-en

[51] Directorate-General for Migration and Home Affairs of the European Commission. *ETIAS*. Available at: https://travel-europe.europa.eu/etias_en

[52] Directorate-General for Migration and Home Affairs. *Schengen Information System*. Available at: https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/schengen-information-system_en

[53] Directorate-General for Migration and Home Affairs of the European Commission. *Visa Information System (VIS)*. Available at: https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/visa-information-system_en

Digital rights civil society organisations (CSOs) have been consistently warning against the Commission's plans for an "interoperable database model"[54] and the opinion of the European Data Protection Supervisor (EDPS) on interoperability warns of the potential for violations of the principle of purpose limitation.[55] Nevertheless, in 2019, such plans came to fruition with the adoption of the Interoperability Regulations (Regulation (EU) 2019/817 and Regulation (EU) 2019/818).[56] This is an ambitious and far-reaching plan which seeks to promote the integration and interconnection of various EU databases, in turn connecting those databases with other data sources maintained by Europol, Interpol and national institutions in third countries. Interoperability between those databases is slated to become reality by 2024, while steps have already been taken towards its implementation. To this effect, Statewatch has argued that the existing architecture should not be understood as an end in itself, but rather a building block for more comprehensive systems of surveillance and control that will extend further into non-EU states.[57]

The *Interoperability Regulations*

The European Asylum Dactyloscopy Database (EURODAC), Schengen Information System (SIS), the Visa Information System (VIS), which are the current operational databases storing personal data of different groups of third-country nationals, were originally envisaged to operate independently, without interacting with one another. Proposals towards the increasing interoperability of biometric databases are based on interlinking existing databases, and establishing new ones. To this effect, Interoperability Regulations 2019/817 and 2019/818, adopted on 20 May 2019, prescribe four main components to be implemented that will create linkages between EURODAC the SIS and the VIS:

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[54] Statewatch. (2023, 23 October). *Database delays: new timetable for interoperable EU policing and migration systems by 2027*. Available at: https://www.statewatch.org/news/2023/october/database-delays-new-timetable-for-interoperable-eu-policing-and-migration-systems-by-2027/

[55] European Data Protection Supervisor. *Interoperability*. Available at: https://edps.europa.eu/data-protection/our-work/subjects/interoperability_en

[56] Regulation (EU) 2019/817 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA [2019] OJ L135/27; Regulation (EU) 2019/818 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 [2019] OJ L135/85 (Interoperability Regulations)."

[57] Statewatch. (2023, February). *Frontex and interoperable databases: knowledge as power?*. Available at: https://www.statewatch.org/frontex-and-interoperable-databases-knowledge-as-power/2-interoperable-eu-databases/

European Search Portal (ESP)	Grants users the ability to simultaneously search all databases they have access to.
Shared Biometric Matching System (sBMS)	A database of biometric data that facilitates conducting biometric searches across interconnected systems.
Multiple Identity Detector (MID)	Through the large scale-comparison of data, this provides for the automatic detection of suspected false or fraudulent identities using a database of links between different records.
Common Identity Repository (CIR)	A new centralised database that will hold "identity data" from each of the underlying systems, except the Schengen Information System: identity data consists of name, nationality, date of birth, sex/gender, fingerprints, facial image, and travel document information.

This framework of interoperability raises the potential for serious violations of human rights. The proposed architecture does not outline GDPR safeguards, which already pose extant issues in the databases set to be connected.[58] There are valid concerns as to how people on the move subject to these systems will have access to information about what data is being stored on them, who has access to it, in what way and for how long it is stored, and how they might correct it if that data is inaccurate. Not providing for these safeguards would entail violations to the fundamental rights of the individual data subject. The EDPS' opinion on interoperability released at the start of 2023[59] states that, in cases where personal data is exchanged between public bodies, all bodies involved must comply with all applicable legislation including access to rights and transparency. There is a high risk that interoperability would seek to circumvent this, and violate rights in the process.

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[58] Stavinoha, Luděk; Fotiadis, Apostolis and Zandonini, Giacomo. (2022, 7 July). "EU's Frontex Tripped in its Plan for 'Intrusive' Surveillance of Migrants." *Reporting Democracy*. Available at: https://balkaninsight.com/2022/07/07/eus-frontex-tripped-in-plan-for-intrusive-surveillance-of-migrants/

[59] European Data Protection Supervisor. *Interoperability*. Available at: https://edps.europa.eu/data-protection/our-work/subjects/interoperability_en

EURODAC

One of the key databases to consider in this interoperable architecture, and when examining the possibility for people on the move to be returned to 'safe third countries,' is the EURODAC. It is the EU-wide information system which processes the fingerprints of asylum seekers and certain categories of 'irregular migrants' upon their entry to any EU Member State.[60] The database was made operational in 2003, initially created for "the effective implementation of the Dublin mechanism,"[61] which designates the EU Member State responsible for processing the asylum application of a third-country national or stateless applicant. Typically, this entails identifying the first Member State that an applicant enters and has the possibility of lodging an application for international protection.

Since becoming operational, EURODAC has undergone significant changes in its purpose and intent. In 2013, Regulation 603/2013 expanded the use of EURODAC to allow for police, public prosecutors, and Europol to access the database.[62] Additionally, the 2013 recast explicitly permits the use of detention to "determine or verify the identity or nationality of an applicant (for international protection)."[63] In 2016, through proposed reforms to the legal framework of the CEAS, the European Commission initiated a further recast of Eurodac, which aimed to transform the system into a tool for both processing applications for international protection and border controls (including the return and resettlement of third country nationals).[64] All data collected was additionally authorised to be retained for up to a decade after its collection and there is a possibility that information obtained about children could remain accessible in EURODAC even into their adulthood. Therefore, not only might EURODAC facilitate returns to safe third countries but it also risks perpetrating rights violations in its implementation through the use of detention and questionable safeguards around data protection rights.

In 2020, EURODAC was again subject to a recast[65] in the package of legislation presented for the New Pact on Migration and Asylum. The scope of EURODAC has been expanding since its implementation, and the new version continues down the same path. Concretely, the new EURODAC legislation, set to be agreed alongside the other New Pact files before the end of 2023, represents a dangerous lowering of safeguards, further digitalisation, and increased access for LEAs.[66] The recast envisions the addition of facial images into the database so that comparisons and searches can be

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[60] Vavoula, Niovi. (2020). *Transforming Eurodac from 2016 to the New Pact*. ECRE. Available at: https://ecre.org/wp-content/uploads/2021/01/ECRE-Working-Paper-Transforming-Eurodac-from-2016-to-the-New-Pact-January-2021.pdf

[61] *Ibid*.

[62] Orav, Anita. (March 2021) *Recast Eurodac Regulations*. European Parliamentary Research Service Members' Research Service PE 589.808. Pg. 6. Available at:; https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/589808/EPRS_BRI%282016%29589808_EN.pdf

[63] *Ibid*.

[64] Vavoula, Niovi. (2020). *Transforming Eurodac from 2016 to the New Pact*. ECRE. Available at: https://ecre.org/wp-content/uploads/2021/01/ECRE-Working-Paper-Transforming-Eurodac-from-2016-to-the-New-Pact-January-2021.pdf

[65] Orav, Anita. (March 2021). *Recast Eurodac Regulations*. European Parliamentary Research Service Members' Research Service PE 589.808. Available at:; https://www.europarl.europa.eu/RegData/etudes/BRIE/2016/589808/EPRS_BRI(2016)589808_EN.pdf

66] European Digital Rights (Edri). (2021, March, 10). *Eurodac Database repurposed to surveil migrants*. Available at:. https://edri.org/our-work/eurodac-database-repurposed-to-surveil-migrants/

run based on facial recognition technology—systems that are notorious for bias against racialised groups and high levels of error.[67] The threshold for storing data in the system would be lowered to include all children aged six and over which is in contravention of the UN's Convention on the Rights of the Child.[68] Furthermore, the recast facilitates connection to other existing EU migration and police databases as part of the 'interoperability' initiative which furthers the agenda of linking asylum seekers with criminals and cements the overlaps of criminal and administrative migration law.

Whilst more than 60 CSOs have spoken out against the reform,[69] calling for it to be stopped entirely, negotiations are set to continue with political agreements to be made in the coming weeks. In essence, this represents a transformation of the system from a mechanism for enforcing the responsible EU Member States to process asylum claims, to a powerful tool of mass comprehensive surveillance, enabling national authorities to track third-country nationals whose data are recorded within the EU, and to potentially facilitate returns to third countries under the new APR. This involves not only so-called 'irregular migrants,' whose movement is monitored with a view to deporting them, but also beneficiaries of international protection.[70] The changes proposed are premised on a logic of people on the move constituting a risk to security, implemented through a highly securitised approach.[71] This runs the risk of engendering rights violations *en masse*, most importantly hampering fast, safe and effective access to asylum procedures that comply with EU standards under the ECFR and the CEAS.

Interoperability with Third Countries

Interoperability with Security Databases

The interoperability framework does not only relate to travel and migration databases but also to databases that govern security-related information. The identified risks are exponentially increased when considering the ways in which such databases are also envisioned to incorporate and connect with databases from third countries. Recent changes to legislation governing Europol, SIS, and the Prüm II proposal are all governed towards achieving interoperability along these lines. They are targeted at

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[67] European United Left (October 2022) *AI: when facial recognition meets tech discrimination*. Available at: https://left.eu/content/uploads/2020/10/explainer_facial_recognition-1.pdf

[68] Convention of the Right of the Child. Available at: https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

[69] Open Letter, *Fundamental rights concerns about the EURODAC reform* (September 2021). Available at: https://edri.org/wp-content/uploads/2021/10/EURODAC-open-letter.pdf

[70] Vavoula, Niovi. (2020). *Transforming Eurodac from 2016 to the New Pact*. ECRE. Available at: https://ecre.org/wp-content/uploads/2021/01/ECRE-Working-Paper-Transforming-Eurodac-from-2016-to-the-New-Pact-January-2021.pdf

[71] Vavoula, Niovi. (2023). *Focus on Eurodac: disentangled from the "package approach" but is it fit to fly?* Available at: https://ecre.org/wp-content/uploads/2023/04/ECRE-Working-Paper-19-Focus-on-the-Eurodac-Dossier.pdf

increasing the capacity for sharing "security related information," such as the biometric data of people on the move who supposedly constitute a risk to internal security via 'irregular entry.' A further initiative from the Commission was announced in 2023, relating to a 'Security-related information sharing system between frontline officers in the EU and key partner countries.'[72] Moves to ramp up the interoperability of EU databases in this way have been sharply criticised[73] for the unjustified conflation of immigration control and criminal law provisions. Alongside this, there are weak anti-discrimination safeguards which, coupled with the skirting of key data protection principles, represent a worrying shift towards the criminalisation of movement both into and within the EU.

Europol and SIS II

The changes to the Europol Regulation that came into force in June significantly loosen restrictions on international data transfers. The Europol Management Board is now able to directly authorise transfers of personal data to third states and international organisations, so long as "appropriate safeguards with regard to the protection of personal data are provided for in a legally binding instrument," or where there is no law in place but where Europol concludes "that appropriate safeguards exist with regard to the protection of personal data."[74] Thus, it has become far easier for Europol to share information with partner countries for the purposes of investigating and combating crime, therefore increasing the availability of that data to MS authorities.

Further, the amendments to the Europol Regulation envisage Europol as a "hub for information exchange,"[75] and the use of big data, including the personal data of people with no established link to criminal activity, for analytical purposes. In particular, Articles 74a and 74b retroactively legalise the practice of processing large volumes of individuals' personal data who have no connection to criminal investigations, which the EDPS has found to be in breach of the Europol Regulation, "seriously undermining legal certainty for individuals' personal data and threaten the independence of the EDPS."[76] On 16 September 2022, the EDPS went a step further in requesting that the Court of Justice of the European Union (CJEU) annul articles 74a

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[72] The Border Violence Monitoring Network. (2023, 30 March). *Submission to the European Commission Consultation: Security-Related Information Sharing.* Available at: https://borderviolence.eu/reports/submission-to-the-european-commission-consultation-security-related-information-sharing/

[73] Picum. (2020, February). *How do the new EU regulations on interoperability lead to discriminatory policing?* Available at: https://picum.org/wp-content/uploads/2020/04/INFOGRAPHIC.-Interoperability-Systems-and-Access-to-Data_WEB_RGB.pdf

[74] See Article 25(4a)(b), Regulation 2016/794 (consolidated version). Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0794

[75] Regulation (EU) 2022/991 of the European Parliament and of the Council of 8 June 2022 amending Regulation (EU) 2016/794, as regards Europol's cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol's role in research and innovation. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R0991&from=EN

[76] EDPS. (2022, 22 September). *EDPS takes legal action as new Europol Regulation puts rule of law and EDPS independence under threat.* [Press release]. Available at: https://edps.europa.eu/press-publications/press-news/press-releases/2022/edps-takes-legal-action-new-europol-regulation-puts-rule-law-and-edps-independence-under-threat_en

and 74b.[77] Civil society actors such as Fair Trials have also been vocal on the topic, arguing that the growth in Europol's policing powers is not sufficiently counterbalanced by enhanced scrutiny and accountability, while stressing that EU policing needs to be held to the rule of law and fundamental rights standards.[78] With the expanded role of Europol in migration contexts there are concerns as to how data protections for people on the move will be upheld.

At the same time, changes to the SIS II legislation have given Europol the power to propose that Member States create "information alerts on third-country nationals in the interests of the Union" in the SIS.[79] These are to be based on data shared with Europol by third states and should relate to individuals suspected of being involved in terrorism or serious crime. A Member State can decide not to enter an information alert upon Europol's proposal, but if the authorities wish they may still enter another type of alert on the same person. Thus, the new legislation provides a way in which "partner-country sourced information" can be made directly available to the Member States. Coupled with the foreseen interlinkages between EURODAC and Europol databases in the EURODAC recast, there is an evident move towards integrating databases concerned with migration, travel, and security related information. This is in keeping with the overall move to insert criminal law procedures into administrative migration law, deeming 'irregular entry' a crime, and tracking and surveilling people on the move, which could have powerful implications for access to fair and just asylum procedures.

Prüm II Agreement

The Prüm Convention takes the interconnecting of security, migration and travel databases a step further. It is a law enforcement agreement that was signed in 2005 between seven Member States (Austria, Belgium, France, Germany, Luxembourg, the Netherlands and Spain) with the goal of 'stepping up cross border collaboration, particularly in combating terrorism, cross border crime, and illegal migration."[80] In 2007, the EU Justice and Home Affairs (JHA) council agreed to integrate aspects of Prüm relating to police and judicial collaboration on criminal matters into the EU legal framework. In August 2008, this came into effect through two Council Decisions (2008/615/JHA and 2008/616/JHA) which together are referred to as the Prüm Decisions. Between 2007-2008, Bulgaria, Finland, Greece, Hungary, Italy, Portugal, Romania, Slovakia, Slovenia and Sweden ratified or acceded to the Convention.

The Prüm framework facilitates automated data exchange between its Member States to inquire about DNA, dactyloscopic (fingerprints) and vehicle registration data in other national databases for the above listed purposes. However reference data is

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[77] EDPS. September 2022. *EDPS takes legal action as new Europol Regulation puts rule of law and EDPS independence under threat.* Available at: https://edps.europa.eu/press-publications/press-news/press-releases/2022/edps-takes-legal-action-new-europol-regulation-puts-rule-law-and-edps-independence-under-threat_en

[78] Fair Trials. (2022, November). *Rule of law perspective on EU policing.* Available at: https://www.fairtrials.org/app/uploads/2022/11/Key-takeaways-9.11.2022.pdf

[79] Second generation Schengen Information System (SIS II). Available at: https://eur-lex.europa.eu/EN/legal-content/summary/second-generation-schengen-information-system-sis-ii.html

[80] EUR-Lex. 2023. Stepping up cross-border cooperation – the Prüm decision. Available at: https://eur-lex.europa.eu/EN/legal-content/summary/stepping-up-cross-border-cooperation-the-pr-m-decision.html

shared only if any matching data sets ("hits") are found. A "hit" is confirmed by a forensic expert who verifies the matching data sets. After confirmation, a request to obtain personal and case-related data from the Member State can be made within 48 hours. In short, the Prüm decisions allowed for the removal of barriers for the circulation of specific categories of information.[81] As of 2020, a large majority of Member States had implemented the Prüm Decisions, allowing for automated searches of DNA analysis files and fingerprint and vehicle registration data. However, some Member States have not become operational and the degree of connectivity between states has varied considerably.[82]

On the 20th of November 2023, the European Parliament and the Council reached an agreement on the tabled proposal for a second Prüm agreement, incorporating a number of amendments proposed by the Parliament. The Parliament and Council have yet to formally adopt this regulation, but a political agreement has been reached. The new Prüm II agrees on the extension of data categories including facial images, driver's licences, and police records of suspected and convicted criminals. It also introduces automated data exchange on facial images and police records, allowing for automated biometric matching of facial images, biometric data and police records.

In addition, the proposal aims to modernise the technical infrastructure facilitating this exchange. A central router is to replace the numerous direct connections between the national Member States' databases, thus linking all databases together, and simplifying the automated exchanges of biometric data. This direct connection, in theory, is meant to make the system more powerful and efficient, making it easier for authorities to query multiple databases. The Central Router will dispatch any queries made by law enforcement authorities to the databases of all other EU Member States and Europol. Indeed, the proposed regulation integrates Europol into the Prüm framework, with Europol able to check third-country sourced data against Member States databases and Member States able to check third-country sourced biometric data at Europol. Under Prüm II, EU law enforcement authorities are afforded the possibility to access data exchanged by Europol with third countries. Under the Europol Regulation, information on matches could be shared with these third countries.

To ensure interoperability of Prüm with other EU data systems and the new interoperability regulations, the central server will be directly linked to the European Search Portal as well as the European Police Records Index System (EPRIS).[83] Concerns have been raised by the European Data Protection Supervisor (EDPS) about the impact on the principle of purpose limitation. In this case, data not collected for this purpose is used to assist in the investigation of offences, without informed consent by the data subjects.[84] Beyond transparency and privacy issues, the interoperability

[81] Vavoula, Niovi. (2020, September). *Police Information Exchange: The future developments regarding Prüm and the API Directive*. Study requested by the LIBE Committee. Available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2020/658542/IPOL_STU(2020)658542_EN.pdf
[82] *Ibid*.
[83] European Commission. (November 20,2023). *The Commission welcomes the political agreement on automated data exchange for police cooperation*. Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5870
[84] European Data Protection Supervisor. (2021). *Interoperability*. Available at: https://edps.europa.eu/data-protection/our-work/subjects/interoperability_en

of law enforcement and civil authority databases also raises concerns of discrimination through facial recognition technologies. Similarly to the EURODAC recast, the new Prüm II regulation, implies the necessary use of facial recognition technology to search national facial image databases connected by the central router. This technology is notorious for racial bias and mismatching people of colour, risking discrimination and violation of civil liberties.[85][86] As European Digital Rights (EDRi) Network remarked in its position paper on the Prüm II proposal, the provisions allowing the search and comparison of third country-sourced biometric data raise the possibility that MS' authorities may "penalise dissidents or other people who are facing politically motivated persecution from third countries." It may also impact asylum adjudication procedures by making it possible for third states to label people as security threats.[87] The paper pointed out that there is "absolutely no guarantee that the biometric data concerns only convicted and suspected terrorists and other serious criminals," and "this assessment may be made by third countries with questionable human rights records, increasing the risk to individuals' rights."[88]

European Integrated Border Management, EUROSUR and Frontex

These changes must also be read in the context of broader infrastructures of border surveillance and control operating between the EU and third countries, namely in relation to the European Integrated Border Management (EIBM) and the European Border Surveillance System (EUROSUR). The core goal of the EIBM is to "manage the crossing of the external borders efficiently and address migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension and ensuring a high level of internal security within the Union."[89] It is based on a four-tiered access control model, including (1) measures in third countries (such as under the common visa policy and measures with neighbouring third countries), (2) border control measures at EU external borders, (3) risk analysis measures within the Schengen area, and (4) returns.[90] The use of biometric data systems is a key element at many levels of this model: from the management of visa related data through VIS and EES, to the use of SIS and Eurodac in the context of border control and returns.

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[85] Vavoula, Niovi. (2020, September). *Police Information Exchange: The future developments regarding Prüm and the API Directive*. Study requested by the LIBE Committee. Available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2020/658542/IPOL_STU(2020)658542_EN.pdf

[86] European Digital Rights (Edri). (2022, September 7). *Respecting fundamental rights in the cross-border investigation of serious crimes*. Available at: https://edri.org/wp-content/uploads/2022/10/EDRi-position-paper-Respecting-fundamental-rights-in-the-cross-border-investigation-of-serious-crimes-7-September-2022.pdf

[87] *Ibid*. p.11

[88] *Ibid*.

[89] 1.2 of the Regulation Regulation (EU) 2016/1624 of 14 September 2016 on the European Border and Coast Guard. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1624&from=EN

[90] 1.3 of the Regulation. Regulation (EU) 2016/1624 of 14 September 2016 on the European Border and Coast Guard. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1624&from=EN

Frontex is the main actor tasked with the implementation of the EIBM, through collaborations with Member States and third countries with which it has working agreements, risk analysis, information exchange and EUROSUR.[91] In order to do this work, national and international coordination centres have been established in both Member States and, more recently, in third countries such as some of the Western Balkan candidate countries (North Macedonia, Montenegro and Kosovo) to foster the coordination and collaboration between relevant authorities.

EUROSUR functions as a framework for information exchange and cooperation between Member States and Frontex to "improve situational awareness and increase reaction capability at the external borders."[92] It is operated by Frontex through National Coordination Centers (NCCs) and covers most aspects of border management, including land, maritime and air border surveillance, but also checks at border crossing points, border operations and integrated planning. Through EUROSUR, Frontex maintains a "situational picture" containing information on European borders and what is described as the "pre-frontier area," or non-Schengen states in which Frontex is active. Data used in developing situational pictures is pooled from a broad range of sources, including border surveillance systems, national and local coordination centres, EU and international organisations, information on unauthorised border crossings, and the Agency itself.[93]

Frontex, in its capacity of conducting risk analyses and establishing situational pictures, has access to a vast amount of data relating to migration.[94] The final report of the Europol-Frontex Future Group on travel intelligence stressed the importance of access to the Central Repository for Reporting and Statistics (CRRS) under the new Interoperability Regulations as a "critical source of high-quality data for risk management" with possibilities for joint analysis between Europol, the EUAA, and Frontex, with the support of new AI-based technologies.[95] One key concern in this regard is the potential use of risk assessment and profiling algorithms used to predict migratory movements and profile people on the move. These threaten human rights both directly and indirectly. Such algorithms codify assumptions about the link between personal data and characteristics with particular risks, such that individuals are not judged on individual behaviour or on factors within their control, but rather on

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[91] Regulation (EU) 2016/1624 of 14 September 2016 on the European Border and Coast Guard. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1624&from=EN
[92] Directorate-General for Migration and Home Affairs of the European Commission. *Eurosur*. Available at: https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/border-crossing/eurosur_en
[93] Official Journal of European Union. (October 2013). *Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur)*. Available at:
https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1052&from=EN
For a full breakdown of data accessible by Frontex, see : Statewatch. (2023, February). *Frontex and interoperable databases: knowledge as power?*. Available at: https://www.statewatch.org/frontex-and-interoperable-databases-knowledge-as-power/2-interoperable-eu-databases/
[94] Statewatch. (2023, February). *Frontex and interoperable databases: knowledge as power?*. Available at: https://www.statewatch.org/frontex-and-interoperable-databases-knowledge-as-power/2-interoperable-eu-databases/
[95] Statewatch. (2022, 22 August). *EU: Police plans for the "future of travel" are for "a future with even more surveillance."* Available at:https://www.statewatch.org/news/2022/august/eu-police-plans-for-the-future-of-travel-are-for-a-future-with-even
-more-surveillance/

predetermined characteristics such as nationality or race.[96] In September 2023, Frontex hosted its first "Risk Analysis Conference" in which panellists explained methods to 'predict' unwanted migration and distribute resources accordingly.[97] It is a very real concern that this would lead to concentrated fortification efforts at specific border areas and increase the risk of *refoulement* or pushbacks *en masse*. As it stands in the negotiations, the AI Act does not consider predictive algorithmics as high-risk technologies, which means they wouldn't be accompanied by the appropriate safeguards that might avoid the proliferation of such rights violations.

Case Study of the Western Balkans

Introduction

In the previous sections, the various initiatives working towards interoperability between EU Member States' and third countries' databases, and between migration, travel and security architectures have been unpacked. For a better understanding of how this is already playing out, the Western Balkan candidate states provide a salient yet underutilised example for analysis. Geographically, they are united to the main bloc of EU Member States, standing between external Member States such as Greece, Bulgaria, Romania and Hungary and the northern Member States where many people on the move normally hope to lodge their claims for international protection. This preference is down to the fact that frontline Member States, due to their geographic positioning, have been overwhelmed by new arrivals since the so-called 2015 'crisis.'[98] This has resulted in a drastic deterioration in reception conditions[99] and the use of pushbacks to circumvent responsibility for processing asylum claims. People on the move, therefore, feel they are at less risk of being illegally removed from the EU once they reach the Northern states, but the candidate countries of the Western Balkans stand in their way. Increased cooperation with these countries seeks to replicate the bilateral agreements that frontline Member States have with third countries—such as Greece with Turkey[100] and Italy with Libya.[101] However, these

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[96] Statewatch. (2022, September). *Using AI tools to predict migration flows will lead to human rights abuses and must cease*. Available at: https://www.statewatch.org/news/2022/september/using-ai-tools-to-predict-migration-flows-will-lead-to-human-rights-abuses-and-must-cease/

[97] Monroy, Matthias. (2023, October). *In September #Frontex hosted its 1st "Risk Analysis Conference"*. [Tweet]. Twitter. Available at: https://twitter.com/matthimon/status/1710026922938228822?t=hjmxl1yxjii0A6jH_x0RHg&s=19

[98] Amnesty International (2015, June). *Greece: Humanitarian crisis mounts as refugee support system pushed to breaking point*. Available at: https://www.amnesty.org/en/latest/news/2015/06/greece-humanitarian-crisis-mounts-as-refugee-support-system-pushed-to-breaking-point/

[99] Médecins Sans Frontières (2015, July). *Thousands of migrants and asylum seekers stranded in precarious conditions across islands*. Available at: https://www.msf.org/greece-thousands-migrants-and-asylum-seekers-stranded-precarious-conditions-across-islands

[100] European Parliament - Train Schedule (2011, November). *Eu-Turkey Statement and Action Plan*. Available at: https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-eu-turkey-statement-action-plan

[101] Memorandum of understanding on cooperation in the fields of development, the fight against illegal immigration, human trafficking and fuel smuggling and on reinforcing the security of borders between the State of Libya and the Italian Republic. (Translated by Sandra Uselli, revised by Marcello Di Filippo, Elena Marati and Anja Palm) Available at: https://eumigrationlawblog.eu/wp-content/uploads/2017/10/MEMORANDUM_translation_finalversion.doc.pdf

agreements have engendered a litany of human rights abuses,[102] and the development of further agreements in the Western Balkan countries risks replicating these failures.

In order to analyse the trend, this case study will explore steps taken towards the development of interoperable biometric databases in the Western Balkans modelled off the existing EURODAC system. This will illuminate how EU funding and operational support is already making the return of asylum seekers to the Western Balkan countries possible, following changes in legislation that seek to codify systematic returns to STCs into law. All this, in spite of evidence that shows people on the move do not have effective access to asylum in those countries and are at risk of *refoulement.*

The proposal to create a colloquially termed "Balkandac" system has been hinted at in different forums in the last years, with varying opinions expressed by local governments as to its potential use and impact, but with little clarity on what it would concretely entail. While there is still a significant lack of transparency regarding current regional data-sharing systems in place, what is clear is that EU institutions have played a central role in both their development and implementation. Methodologically, this case study draws on a combination of observations from grassroots actors and people on the move, open-source research and Freedom of Information Requests (FOI) and related responses. By drawing on different source materials and perspectives on the issue, it seeks to provide a multifaceted approach to promote greater visibility and accountability for human rights violations that are accompanying the pursuit of interoperable database models in the Western Balkans.

Collection of Biometric Data in the Western Balkans

Data collected by members of the BVMN indicates that practices of gathering biometric data are well underway in a number of Western Balkan states which have accession status and receive funds to develop national EURODAC-compatible biometric databases.[103] In 37 testimonies of pushbacks from North Macedonia to Greece (2019-2023), respondents recount how their fingerprints, biographical information and facial images were collected prior to being pushed back.[104] In most testimonies, a similar sequence of events is described: people on the move are apprehended in the border region or deeper into the interior of the territory, they are taken to the Vinojug Temporary Transit Centre in Gevgelija, North Macedonia, where their biometric data is collected and they are detained for several hours. They are

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[102] Ceretti, Victoria, Researcher at Euro-Med Monitor. (2023, March). *Italy-Libya Memorandum of Understanding: An affront to the fundamental human rights of migrants, refugees, and asylum seekers.* Available at:
https://euromedmonitor.org/en/article/5561/Italy-Libya-Memorandum-of-Understanding:-An-affront-to-the-fundamental-human-rights-of-migrants,-refugees,-and-asylum-seekers
[103] Council of the EU (2022): Recommendation for a council decision authorising the opening of negotiations on a status agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro. Available at: https://www.statewatch.org/media/3549/eu-frontex-status-agreement-com-recommendation-montenegro-14062-22.pdf; European Commission. (2022). *Serbia 2022 Report.* Available at: https://www.stat.gov.rs/media/358410/serbia-report-2022-1.pdf; EU delegation in Bosnia and Herzegovina. (2021, 28 January). *Regular IPA II assistance on migration & border control.* Available at: https://www.statewatch.org/media/2454/annexe-5-clean.pdf
[104] See testimony annex.

denied access to asylum procedures, and are subsequently pushed back to Greece. The collection of their biometric data is not accompanied by the safeguards foreseen in the GDPR—namely, the provision of information regarding what data is being collected, for what purpose, who will have access to it, and where and for how long it will be stored.

Testimony - biometric data and pushback[105]

The respondent, a 54-year-old man from Palestine, was part of a transit group consisting of him and one other 51 year-old man. The two men were reportedly apprehended by officers, identified as North Macedonian police, at 6.30am on the morning of 5th July 2023, after boarding a bus to Skopje. They were then taken, along with one other person, to a camp for identification procedures and subsequently pushed back to Greece at approximately 8am on the same morning.
At the camp, the group reportedly had their fingerprints and photos taken by 6 police officers wearing the same dark blue uniforms. The respondent further reported that the officers were speaking in a language the respondent could not understand, but he noted that there was a translator present in the camp.

During their time in North Macedonia, neither the respondent nor any other person from the group applied for asylum. The respondent explained that "nobody asks [for asylum], there is no chance to ask."

© The Border Violence Monitoring Network
Vinojug Temporary Transit Centre

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[105] The Border Violence Monitoring Network. 2023. *Nobody asks [for asylum], there is no chance to ask.* Available at: https://borderviolence.eu/testimonies/july-5-2023-gevgelija-north-macedonia/

© The Border Violence Monitoring Network
Vinojug Temporary Transit Centre
'Living quarters' & standard living container

The frequency with which this trend is reported has increased in the last year, arguably suggesting a standardisation of the practice when pushbacks occur. One of these incidents was further analysed in a recent BVMN visual investigation, in which the specific locations and authorities involved in the pushback are analysed using video footage taken by the respondent.[106] This analysis was further verified by the UN's Working Group on Enforced Disappearances who cited the investigation as a combination of techniques "successfully used to collect evidences of enforced disappearances."[107]

[106] The Border Violence Monitoring Network. (2022, November). *Pushback from North Macedonia: Visual Analysis*. Available at: https://borderviolence.eu/reports/pushback-from-north-macedonia-visual-analysis/

[107] A/HRC/54/22/Add.5: New technologies and enforced disappearances - *Report of the Working Group on Enforced or Involuntary Disappearances*. Available at: https://www.ohchr.org/en/documents/thematic-reports/ahrc5422add5-new-technologies-and-enforced-disappearances-report-working

After about 20 minutes, a van arrived with two male police officers in the same uniform as the officers who apprehended them. The respondent explained that they were placed in a van and driven to a police station, the journey took about half an hour. Fingerprints, photos and personal information were taken at the police station.

"Then after this process of taking the personal information, pictures and fingerprints, they took us straight to the gate, the border."

When they arrived at the border, the respondent stated that the officers took all their belongings, saying,

"First they took all of our belongings. They took 200 euros and my phone."

The respondent explained that after this, they had to lie-down and the officers started beating them with wooden sticks, noting:

"They were beating us so hard."

© Border Violence Monitoring Network
"Pushback gate" at North Macedonia - Greece border

[108] The Border Violence Monitoring Network. (2021, 12 July). *They told us to lay down and they started beating us*. Available at: https://borderviolence.eu/testimonies/december-7-2021-0000-near-gevgelija/

It is evident through this data collected by BVMN partners that biometric data is being collected at borders, prior to pushbacks, in non-EU Member States. The question is then one of whether or not data gathering and management systems which are being developed in the Western Balkans would be connected to EU systems and the broader interoperability framework. The European Commissioner for Neighbourhood and Enlargement previously stated that connecting these systems would only be possible upon EU accession of individual states. However, as this paper will go on to discuss, there are methods by which exchanges of data between the two systems are already possible.

Interoperability in the Western Balkans

▶▷ Funding for Interoperability in the Western Balkans

In order to understand how national databases in the Western Balkans interconnect with the EU interoperability framework, we must first look to how these databases are funded. Due to their status as candidate countries, a number of Western Balkan states have access to funding through the European Union's Instruments for Pre-Accession Assistance, IPA II and IPA III. This, in addition to funding provided through bilateral agreements with individual Member States, has gone towards the development of biometric data systems modelled off the EURODAC.[109] Under the IPA II and III frameworks, the creation of these systems has been supported through the allocation of funding and the provision of biometric registration equipment. The main stated objective of this is to enhance the registration capacities of both law enforcement authorities and asylum institutions in the Western Balkans, within the broader framework of European Integrated Border Management.[110] To this effect, the Commission identified specific outputs for the region in 2022, including strengthening technical capacities for implementing EU-compliant identification and registration systems before 2027.[111] For BiH, Montenegro, Serbia and Kosovo, the EU planned to procure the necessary IT and communication infrastructure to develop identification and registration of third-country nationals, in compliance with EU standards, as well as to provide capacity building and training.

In addition to developing national biometric registration capabilities in the Western Balkans, EU-backed projects have also provided funding for the exchange of information between asylum and law enforcement authorities at a national level.[112] In an informal meeting of EU Justice and Home Affairs Ministers in January 2020, Member State representatives "discussed the possibility of stimulating the development, by Western Balkan partners, of national biometric registration/data-

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[109] European Commission. (October 2022). *EU increases support for border and migration management in the Western Balkans*. Available at: https://reliefweb.int/report/bosnia-and-herzegovina/eu-increases-support-border-and-migration-management-western-balkans

[110] European Commission. *Annex 1 of the Commission Implementing Decision on the financing of the individual measure to strengthen border management capacities in favour of the Western Balkans for 2022*. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/C_2022_7584_F1_ANNEX_EN_V1_P1_2268709.PDF

[111] *Ibid*.

[112] Council of the EU. (2020). *Combating migrant smuggling : current operational needs and enhancing cooperation with the WBs*. (No 5754/20). Available at:https://www.statewatch.org/media/documents/news/2020/feb/eu-council-croatian-presidency-wb-smuggling-proposals-5754-20.pdf

sharing systems on asylum applicants and irregular migrants."[113] To this effect, the European Commission and EU Agencies have additionally funded the increased interoperability of national databases processing personal data of third-country nationals, arguably in order to facilitate surveillance through inter-agency cooperation.

▶▶ <u>Operational Support for Interoperability in the Western Balkans</u>

Frontex

The EU doesn't only provide funding in order to construct EURODAC compatible databases and enhance data-sharing between agencies on a national level, they also deploy operational support. Through working agreements, Frontex is present in several Western Balkan States (Albania, BiH, Serbia, North Macedonia, Kosovo, Montenegro), with nearly 500 standing corps officers and staff deployed.[114] As the main actor responsible for developing and implementing EURODAC compatible biometric databases and EUROSUR capacities within the region,[115] in addition to carrying out responsibilities in border controls, registration of asylum seekers, and other Joint Operations (JOs) with national authorities, they serve as the linchpin for European Integrated Border Management in the Balkans. This access comes in two forms: operational and statistical. Frontex has access to a broad range of data pertaining to migration and asylum processes in the Western Balkans, which, without adequate safeguards, potentially bypasses legal limitations on the exchange of personal data and poses significant risks to the fundamental rights of people on the move. Frontex is bound under Regulation 2018/1725[116] which governs the protection and sharing of personal data by EU agencies and institutions. According to the regulation, any sharing of data with third countries must be preceded by an 'adequacy decision' from the Commission which confirms that the national legislation sufficiently safeguards data protection rights (Art 47). In the absence of such a decision, data can still be exchanged pursuant to other safeguards (Art 48) such as a legally enforceable instrument or standard data protection clauses among others. For the purpose of this study, no adequacy agreements between the Commission and Western Balkan accession states could be found. However, clauses in Frontex's Status Agreements with the Western Balkan countries lay out provisions for the consultation of national databases.

Per status agreements with Albania, Serbia, North Macedonia and Montenegro, Frontex staff members have access to national biometric databases, subject to the

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[113] *Ibid.*

[114] Frontex. (2022, 12 December). *EU external borders in November. Western Balkans route most active.* Available at: <u>https://frontex.europa.eu/media-centre/news/news-release/eu-external-borders-in-november-western-balkans-route-most-active-ULSsa7</u>

[115] Frontex (2023). *Beyond Eu Borders*. Available at: <u>https://www.frontex.europa.eu/what-we-do/beyond-eu-borders/our-international-projects/</u>

[116] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance.) Available at: <u>https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018R1725</u>

authorisation of national authorities in North Macedonia (Art 16.1.i), Albania (Art 4.7), Serbia (Art 5.7) and Montenegro (Art 5.7). In North Macedonia, further communication to other bodies is permitted with prior authorization of the communicating body (Art 16.1.i). Frontex may communicate information obtained to a third country in Serbia (Art 10.3), and Montenegro (Art 10.3). In Serbia (Art 10.3), Albania (Art 9.3), and Montenegro (Art 10.5), participating Member States can access personal data collected for administrative purposes during a joint action. It is unclear, however, whether the Frontex Status agreements with the countries constitute sufficient safeguards for the exchange of data under Regulation 2018/1725.

In the context of the increasing interoperability of EU databases and the presence of EU institutions in the Western Balkans pre-accession States, it is important to understand how even if connection to the EURODAC may not be legally possible until accession to Schengen, such connections may already happen in practice. With Frontex able to access both national and EURODAC databases for the purpose of their operations, and a lack of clarity regarding the ways in which data might be shared it is possible that proxy links are already being created.

Frontex also has access to SIS and, through the new interoperability regulations, will be able to use the ESP, CIR and MID "for the purpose of carrying out risk analyses and vulnerability assessments."[117] The agency is responsible for operating the Central Unit of the European Travel Information and Authorisation System (ETIAS), giving it a "key role in the EU's emerging 'travel intelligence' architecture."[118] Frontex may be authorised to access the EES in the context of the ETIAS Central Unit. Access to VIS is also permitted, as long as it is deemed necessary to perform tasks or relates to Frontex operational plans. On an operational level, Frontex also works closely with Europol in the Western Balkans, and may share or request data relevant to operational plans. Currently, the legislation governing EURODAC does not specifically mention access by Frontex or members of its teams, although they may be granted access via a host Member State in accordance with the Frontex Regulation.[119] Moreover, the proposed recast of the system (2020) contains specific provisions allowing members of Frontex teams to take biometric data from applicants for international protection[120] and "individuals apprehended in connection with the irregular crossing of an external border,"[121] and to transmit that data to the Eurodac Central System.

This places Frontex in a connecting role between EU and new EURODAC-compatible biometric databases in Western Balkan States (in addition to already having access to

[117] Statewatch. (2023, February). *Frontex and interoperable databases: knowledge as power?*. Available at: https://www.statewatch.org/frontex-and-interoperable-databases-knowledge-as-power/2-interoperable-eu-databases/
[118] *Ibid*.
[119] Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R1896
[120] Article 10. European Commission. (2020, 23 September). Amended proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of biometric data. COM(2020) 614 final. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:614:FIN
[121] Article 13. European Commission. (2020, 23 September). Amended proposal for a Regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of biometric data. COM(2020) 614 final. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:614:FIN

existing national biometric databases). This is the reality, despite the European Commission stating that a connection between EURODAC and the data collection systems created in alignment with EU standards in the respective countries would only take place in case of EU accession.[122] On the other hand, the European Council expressed potential future strategies in which Frontex would play a key role in establishing the relevant agreements on facilitation of access to collected data.[123] Creating an interoperable system in the Western Balkans could, in the long term, mean a *de jure* or *de facto* extension of new return procedures to the Western Balkans. [124] This is already the case in Hungary, where the law states that people on the move must be refused asylum and returned to Serbia, on the grounds that they can have access to asylum procedures there.[125] Whilst these countries are indeed candidate countries, they have not yet met the conditions for accession—particularly with regards to migration and asylum access.

European Migration Liaison Officers

Another form of operational support provided by the EU are European Migration Liaison Officers (EMLOs). To the ends of creating a comprehensive situational picture to "support evidence based policy making and operational responses," the 2019 Regulation (EU) 2019/1240 established a network of European Migration Liaison Officers in the Western Balkans and other third countries to coordinate and represent EU interests in the field of migration.[126] In particular, they play an important role in the development of interoperable biometric systems, and the strengthening of existing channels for sharing biometric data. The stated role of these liaison officers is to:

> support the development by partners in the Western Balkans of interoperable national biometric registration/data-sharing systems on asylum applicants and irregular migrants - systems which could be modelled on the Eurodac technical and data protection principles, thus enabling regular regional information exchange and ensuring their future interoperability and compatibility with EU systems.[127]

[122] Migreurop. (2021, November). *Exils sans fin, chantages anti-migratoires le long de la route des Balkans*. Available at: https://www.lacimade.org/wp-content/uploads/2021/11/rapport_balkans_migreurop_2021_-_def.pdf

[123] Council of the EU. (2020). *Enhancing Cooperation with the Western Balkan Countries: Combating Migrants Smuggling - Presidency Discussion Paper*. Available at: https://www.statewatch.org/media/2457/annexe-8-clean.pdf

[124] Bisiaux, Sophie-Anne; Naegeli, Lorenz; Netzpolitik. (2021, 6 January). *Die EU lagert ihre digitalen Grenzen aus*. Available at: https://netzpolitik.org/2021/westbalkan-die-eu-lagert-ihre-digitalen-grenzen-aus/; Migreurop. (2021, November). *Exils sans fin, chantages anti-migratoires le long de la route des Balkans*. Available at: https://www.lacimade.org/wp-content/uploads/2021/11/rapport_balkans_migreurop_2021_-_def.pdf

[125] BBC News. (2018, 20 June). *Hungary passes « Stop Soros » law banning help for migrants*. Available at: https://www.bbc.com/news/world-europe-44546030

[126] Directorate-General for Migration and Home Affairs of the European Commission. *European Migration Liaison Officer (EMLO)*. Available at: https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/european-migration-liaison-officer-emlo_en

[127] Regulation (EU) 2019/1240 of the European Parliament and of the Council of 20 June 2019 on the creation of a European network of immigration liaison officers. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1240&from=EN

Liaison officers are allowed to process biometric and biographical data (including in migration/accessing international protection contexts, stopping smuggling, etc). They are mandated to do so in the context of the implementation and enforcement of return decisions.[128] It is further specified that in cases where countries of return do not have adequate systems in place for the protection of personal data, "that personal data should be transferred by immigration liaison officers for the purposes of implementing the return operations."[129] Operationally, this could entail Member States returning individuals to STCs who, in turn, return them to origin countries which would not be safe to return to according to EU standards.[130] Further, liaison officers can share personal data processed with law enforcement agencies and within the network of Migration Liaison Officers if deemed necessary for "preventing irregular migration" in the context of their operations, and the prevention, investigation, detection and prosecution of smuggling or trafficking. This would allow for the sharing of biometric data on national, as well as regional (and potentially EU) levels if deemed necessary in specific cases.[131] Yet again, this demonstrates the ways in which the legal requirements for sharing data with third countries can be circumvented through the myriad of connections established by the different institutions and agencies engaged in the 'interoperability framework.'

Europol

Europol currently has working agreements with Albania, North Macedonia, Montenegro, and Serbia, through which a network of liaison officers has been established in the region. They communicate using Europol's Secure Information Exchange Network Application (SIENA), which is accessible to Europol, EU Member States, and some third parties. Europol also has a working arrangement with the law enforcement authorities of Kosovo. Furthermore, Albania, North Macedonia, Montenegro and Serbia have signed cooperation agreements with Eurojust. In a statement put out by the Council Presidency in 2020, it was further suggested that "proactive input of information by Western Balkan partner authorities to Europol should be encouraged," and that all relevant local authorities should be equipped with access to SIENA.[133] The agency is also involved in the Western Balkans Taskforce, and in close collaboration with Frontex and the EUAA. In the previous section on the 'interoperability framework,' the role of Europol in exchanging information between Member States and third countries, as well as in the connection between migration and criminal databases was discussed. Their presence in the Western Balkans is implementing similar agreements in third countries, modelled on the EU system.

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[128] (24) of the Regulation (EU) 2019/1240 of the European Parliament and of the Council of 20 June 2019 on the creation of a European network of immigration liaison officers. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1240&from=EN

[129] *Ibid.*

[130] *Ibid.*

[131] (26) of the Regulation (EU) 2019/1240 of the European Parliament and of the Council of 20 June 2019 on the creation of a European network of immigration liaison officers. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1240&from=EN

[132] European Parliament. (2021, December). *Cooperation in the fight against organised crime in the Western Balkans.* Available at: https://www.europarl.europa.eu/RegData/etudes/ATAG/2021/698838/EPRS_ATA(2021)698838_EN.pdf

[133] Council of the EU. (2020, 14 February). *Combating migrant smuggling: current operational needs and enhancing cooperation with the WBs.* 5754/20. Available at: https://www.statewatch.org/media/documents/news/2020/feb/eu-council-croatian-presidency-wb-smuggling-proposals-5754-20.pdf

▶▷ <u>Systems for Interoperability in the Western Balkans</u>

EUROSUR

In a joint report by Frontex, EUAA, and Europol from 2019, a key recommendation included establishing a "EUROSUR Specific Situational Picture for the Western Balkans region allowing Western Balkans countries to timely exchange relevant information with Frontex and the other concerned agencies as well as among each other."[134] On 9 April 2021, the European Commission adopted Implementing Regulation (EU) 2021/581,[135] laying down additional rules for EUROSUR in terms of information exchange and cooperation between EU Member States. This new regulation states that it focuses on easier and more secure information exchange, more effective reporting, reporting on search and rescue activities and improved cooperation with third countries. Through this, the use of EUROSUR has been extended to non-Member States in the Western Balkans. National Coordination Centres (NCCs) have been established already in several Western Balkan states, including Kosovo and North Macedonia, the primary goal of which is to facilitate the establishment of EUROSUR's Specific Situational Picture for the Western Balkans region. This will allow Western Balkans countries to quickly exchange relevant information with Frontex and the other concerned agencies, as well as with the relevant authorities on a regional level.[136]

In March 2023, the Commission released for the first time a multiannual strategic policy cycle in EIBM for the next five years. The first component outlined in the strategy is advancing border controls through IT and inter-agency cooperation, focusing in particular on the implementation of EUROSUR and the use/interoperability of EU information systems (SIS, EES, VIS, and ETIAS). Increased collaboration in Western Balkan countries is highlighted, as well as a common European System for returns facilitated by Frontex.[137] With regards to the Western Balkans, the policy focuses on collaboration and the sharing of migration data and situational pictures between NCCs at a regional level, capacity building in relation to EIBM, and complementarity between civilian Common Security and Defence Policy missions witha border management component and Frontex.[138]

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[134] Europol, EASO & Frontex. (2019). *Tackling Migrant Smuggling in the Western Balkans- joint report 2018-2019*. Available at: https://www.statewatch.org/media/documents/news/2020/feb/eu-council-croatian-presidency-wb-smuggling-proposals-5754-20.pdf

[135] European Commission. (2021, 9 April). *Commission Implementing Regulation (EU) 2021/581 on the situational pictures of the European Border Surveillance System (EUROSUR)*. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0581&from=EN

[136] Várhelyi, O. (2020, 17 December). *Answer given by Mr Várhelyi on behalf of the European Commission to the Parliamentary question E-005336/2020*. Available at: https://www.europarl.europa.eu/doceo/document/E-9-2020-005336-ASW_EN.html

[137] European Commission. (2023, 14 March). *Managing migration: new initiatives to strengthen European integrated border management and expedite returns*. Available at: https://ec.europa.eu/commission/presscorner/detail/eN/ip_23_1629

[138] European Commission. (2023, 14 March). *Communication from the Commission to the European Parliament and the Council establishing the multi annual strategic policy for European integrated border management. COM(2023) 146 final*. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/DOC/?uri=CELEX:52023DC0146&from=EN

National Coordination Centres

In practice, one of the ways increased data-sharing has taken place through the EIBM and increased agency support is with the creation of National Coordination Centers (NCCs).

In written conclusions published on enhancing cooperation with Western Balkans following the January 2020 informal meetings of ministers in Zagreb, the EU Council called on the relevant EU Agencies to "cooperate with the Western Balkan partners in establishing interconnected NCCs for efficient migration policy, border management and tackling migration challenges."[139] This was later confirmed by several EU agencies: Frontex declared that it was "strongly engaged" in establishing such structures, while a 2020 joint report by Frontex, Europol, and the EASO also calls for the establishment of "national coordination centres for border control in the Western Balkan countries."[140] The development of these NCCs are financed under IPA III. In 2022, the design and construction of NCCs in Montenegro and Kosovo were initiated. [141]

These structures are modelled on existing NCCs which are active in EU Member States that are responsible for coordinating border and asylum action. The NCCs function as central coordinating entities for border surveillance authorities within the relevant Member States. They facilitate the exchange of information among the authorities and also with Frontex. In situations where multiple national authorities are involved in border control, the NCC serves as a platform for promoting inter-agency cooperation between different organisations belonging to different ministries. Additionally, the NCCs are responsible for maintaining the national situation picture for EUROSUR.[142]

NCCs thus form a crucial element of European Integrated Border Management. Their establishment in Western Balkan states constitutes a step towards increasing interagency cooperation on a regional level, as well as with EU institutions. As hubs for the exchange of information, NCCs concretely serve as part of the infrastructure for the sharing of data. In 2022, IPA funding was announced for the development of NCCs in six Western Balkan states, with the aim of facilitating the sharing of information from the region with EUROSUR.[143]

[139] General Secretariat of the EU Council. (2020, 5 June). *Council conclusions on enhancing cooperation with Western Balkans partners in the field of migration and security*. Available at: https://drive.google.com/file/d/1Vz4t1k9xObsSTmJBhYMz2AgSB8QgHtEn/view?usp=sharing
[140] Europol, Frontex, and EASO Joint Report. (2020, January). *Tackling Migrant Smuggling in the Western Balkans*. Available at: https://drive.google.com/file/d/1C-a-Gns39-8fIzGh6G9TegthnWg_uYm8/view?usp=sharing
[141] Individual measure to strengthen border management capacities in favour of the Western Balkans for 2022. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/C_2022_7584_F1_ANNEX_EN_V1_P1_2268709.PDF.
[142] European Court of Auditors. (2021). *Special Report. Frontex's support to external border management: not sufficiently effective to date*. Available at: https://www.eca.europa.eu/Lists/ECADocuments/SR21_08/SR_Frontex_EN.pdf
[143] Statewatch. (2022, 18 August). *Frontex celebrates "expanding footprint" beyond the EU in report on third country cooperation*. Available at: https://www.statewatch.org/news/2022/august/frontex-celebrates-expanding-footprint-beyond-the-eu-in-report-on-third-country-cooperation/

Prüm-like Agreement

Another such example of EU systems that are extended to or replicated in the Western Balkan states, thus making them ready for future interoperability, is the existence of Prüm-like agreements. In the ministerial conference "Security and Migration – Promoting Partnership and Resilience"[144] on 13 September 2018 in Vienna, a Prüm-like agreement was signed by Albania, Austria, Bulgaria, Hungary, Moldova Montenegro, Northern Macedonia, Romania, Serbia and Slovenia. Similar to the EU Prüm Decisions, this allows for the exchange of all participating states to query each other's biometric data (DNA, fingerprints, and vehicle registration).[145] The Agreement obliges the Parties to align the principles relating to the processing of personal data with the EU Directives, based on the principles and standards of Directive (EU) 2016/680 and the relevant conventions and recommendations of the Council of Europe. Since full EU-Prüm readiness is one of the preconditions for meeting EU accession criteria, it is clear why the agreement is based on the EU model.

This conference was attended by Home Affairs ministers from the Western Balkans and Moldova, as well as the EU Member States, and several EU agencies currently active in the Western Balkans on the development of systems for the collection and sharing of biometric data in a migration context, namely Frontex, the European Asylum Support Office (EASO), Europol and Interpol as well as representatives from the International Organization for Migration (IOM) and the International Centre for Migration Policy Development (ICMPD).[146] It is not clear in which capacity the various EU bodies participated in the conference in Vienna. Nevertheless, their presence is noteworthy given the broader context of increasing interoperability of biometric information systems, EU agencies such as Frontex increasingly having access to national biometric systems in the Balkans, leading to the interconnection of biometric data pertaining to asylum and criminal cases on a structural level.

While the Prüm framework seeks to facilitate the exchange of biometric data between Member States (and third countries), interoperability with other EU systems should be considered carefully to prevent potential rights violations. Any further connections between the Western Balkans must come with adequate data protection safeguards. Under the interoperability regulations, the current EURODAC recast, and the biometric systems being developed in the Western Balkans on national levels, law enforcement authorities (both national and EU agencies such as Frontex and Europol) are granted expanded access to biometric data collected in migration contexts. Further, as described above, there has been a shift to use EURODAC and new counterpart systems being developed in the Balkans to record and store data both on asylum

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[144] Europa Nu. *Conference on Security and Migration - Promoting Partnership and Resilience, Wenen*. Available at: https://www.europa-nu.nl/id/vkodwsk52lxv/agenda/conference_on_security_and_migration?ctx=vkipixf4atvn&s0e=vifdl6zl7txx&tab=1
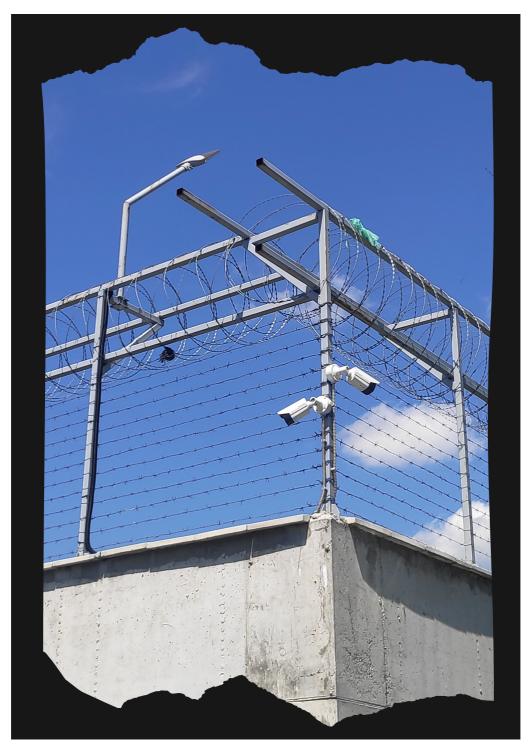
[145] Agreement Between the Parties to the Police Cooperation Convention for Southeast Europe on the Automated Exchange of DNA Data, Dactyloscopic Data and Vehicle Registration Data. Available at: https://www.eu2018.at/latest-news/news/09-13-Westbalkan-Konferenz--Pr-m-Abkommen-f-r-S-dosteuropa-unterzeichnet-.html

[146] Austrian Presidency of the Council of the EU. (2018, 13 September). *Western Balkans Conference: Signature of Prüm agreement for Southeast Europe* [Press release]. Available at: https://www.eu2018.at/latest-news/news/09-13-Westbalkan-Konferenz--Pr-m-Abkommen-f-r-S-dosteuropa-unterzeichnet-.html

seekers and "irregular migrants." This signals a shift in the use of such systems from administrative purposes to tools of broader surveillance premised on a logic of people on the move constituting a risk to public order or national security.[147] In this context, interoperability or tools for the exchange of biometric data in criminal cases must include necessary safeguards to ensure that it does not contribute to the mounting unjust criminalisation of people on the move, potentially in contradiction to international humanitarian obligations and the GDPR.

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[147] Vavoula, Niovi. (2023). *Focus on Eurodac: disentangled from the "package approach" but is it fit to fly?.* Available at: https://ecre.org/wp-content/uploads/2023/04/ECRE-Working-Paper-19-Focus-on-the-Eurodac-Dossier.pdf

Country case studies

The so-called Western Balkan route, and the countries it encompasses, are taken as the case study for this paper due to their geographic location in the midst of the EU Member States. In the last three years, it has also been publicised that transit along this route has been increasing. Frontex has issued a statement[148] saying that the route was the second-most used path to Europe in 2021 with "illegal border crossings" doubling from the previous year, to a total of 61,735. In 2022, this number rose again with Frontex registering 145,600 "irregular border crossings." The statement says that citizens of Syria, Afghanistan and Turkey account for the largest number of apprehended individuals. Additionally, new categories of people have been detected such as Tunisians, Indians and Burundis. This statement can be seen as justifying Frontex's expansion in the region. At the time of writing Frontex is present in several Western Balkan countries, either through formal joint operations or Status Agreements, namely Albania, Bosnia-Herzegovina, Serbia, North Macedonia, Kosovo and Montenegro. By June 2023, the number of "irregular entries" had reached 39,580,[149] and, whilst the numbers are still relatively low compared to the so-called crisis of 2015 where over one million individuals sought asylum in Europe, the increased number of arrivals has been spun into a state of emergency at the EU's external borders.[150] This has, in turn, justified the increased surveillance, tracking, detention, and deportations of third country nationals in Western Balkan countries. Those aims have been realised through financial assistance, capacity building, and the construction of new coordination centres as detailed above. The following section will map out in more detail the state of play of these initiatives in the different Western Balkan states.

▶▶ Montenegro

Much like the other Western Balkan states, Montenegro is considered a transit country. In 2022, 8,519 people on the move entered into Montenegro irregularly, approximately double the number recorded in 2021. Whilst 8,320 individuals registered an intention to request asylum, just 175 lodged a request and, of those, only 9 were granted some form of international protection.

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[148] Council of the European Union (11 October 2022). Interinstitutional File: 2022/0300 (NLE). *Agreement between the European Union and the Republic of North Macedonia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of North Macedonia.* Available at: https://data.consilium.europa.eu/doc/document/ST-12896-2022-INIT/en/pdf

[149] European Council.(Last reviewed in October 2023). *Infographic - Illegal border crossings on the Western Balkans route.* Available at:
https://www.consilium.europa.eu/en/infographics/western-balkans-migration-route/

[150] Frontex (January 2023). *EU's external borders in 2022: Number of irregular border crossings highest since 2016.* Available at: https://www.frontex.europa.eu/media-centre/news/news-release/eu-s-external-borders-in-2022-number-of-irregular-border-crossings-highest-since-2016-YsAZ29

> **Testimony - Montenegro to Albania[151]**
>
> The group was approached by three police officers. The officers wore dark blue uniforms. The respondent described the officers as shouting in Montenegrin before pointing their guns at the group. The officers pointed with their hands to the ground, and the group understood to lie-down.
>
> *"They screamed 'Stop, Stop!' at us and showed us to sleep on the ground. The baby started screaming, we told her: It's okay, it's okay."*
>
> *"The police looked strong, scary. When you see them, you feel fear."*
>
> The van stopped in an area without houses at the Albanian border. It was described by the group as "a village without houses, near a forest." When the van stopped, the officers and the dog got out of the car. The dog was held on a leash.
>
> One officer opened the side door and told the group to get out. The group got out, but they did not take their bags. An officer shouted: "Take your bags!" and grabbed one member of the group roughly by the shoulder. The group took their bags and sat down, as they were exhausted and hungry.
>
> The officers grabbed the members of the group by the arms and pulled them up. They shouted: "Go, go! This way Albania!" The officers followed the group for a bit, then left them.

Montenegro adopted an Integrated Border Management Strategy for 2020 – 2025[152] in January 2021; however, its capacities in terms of border controls remain significantly lower than other countries within the region. Until recently, the border police in Montenegro did not have a biometric registration system. Officers collected fingerprints with ink on paper and logged it manually. In 2021, Frontex developed a Masterplan for Montenegro outlining needs in terms of both software and hardware for the implementation of a biometric system for the identification and registration of people on the move, in line with EURODAC standards.[153] The Masterplan led to the establishment of a 15,000,000 euro program under IPA III, implemented by IOM with the aims of (1) upgrading the capacities to identify, register, screen and process information on people on the move in line with Union and international standards, (2)

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[151] The Border Violence Monitoring Network. (2019, 15 April). *Please, please, the baby is sick, look at her! She needs to go to the hospital.* Available at: https://borderviolence.eu/testimonies/april-15-2019-0000-tuzi-montenegro/

[152] Montenegro Ministry of Interior. (2021) *Strategy on migration and reintegration of returnees in Montenegro for the period 2021-2025, with an action plan for 2021 and 2022.* Available at: https://www.refworld.org/pdfid/6231d49e4.pdf

[153] Reference to the masterplan can be found in ANNEX 1 of the Commission Implementing Decision on the financing of the individual measure to strengthen border management capacities in favour of the Western Balkans for 2022. Requests made to Frontex for access to the document to date have received no response.

procuring border surveillance equipment, (3) establishing a National Coordination Centre compatible with EUROSUR standards and (4) improving border-crossing points. [154] However, according to the Commission's 2023 EU Enlargement report on Montenegro,[155] the country still does not have a modern fingerprinting identification system for people on the move that is connected to a central biometric database.

As a means to remedy this slow progress, the EU signed, in May 2023, an 'upgraded agreement' on operational cooperation in border management with Frontex which entered into force in July 2023. This was touted as a "tangible deliverable" on the EU Action Plan on the Western Balkans with Frontex officers set to be deployed across "all Montenegrin borders with neighbouring countries" to address "irregular migration" and further enhance security at the EU's external borders.[156] Margaritis Schinas, Vice-President of the Commission, said that the agreement is proof of the strong partnership between the EU and its Western Balkan partners in migration and border management.[157] Details from the Status Agreement[158] reveal that Montenegro may authorise Frontex team members to consult national databases for achieving operational aims, and such consultations will be carried out in accordance with the national data protection law of Montenegro and the Status Agreement. Considering that Frontex also has access to EURODAC and other databases under the 'interoperability framework,' this again indicates how biometric "hits" might be facilitated between EU Member States and third countries in the Western Balkans to pursue returns. Indeed, questions posed to Ivana Kovačević, the First Secretary for Home Affairs concerned with the Mission of Montenegro to the European Union elicited a response that stated: "One of the key priorities of the Ministry of Interior of Montenegro is the establishment of a system for electronic identification and registration of migrants, which will enable the timely exchange of information with the countries of the region and the Member States of the European Union in order to improve the system for the identification and registration of migrants."[159] A viability study (the so-called MASTERPLAN) was carried out by the Commission and Frontex which assessed the information and communication infrastructure to support the

[154] Council of the EU (2022): Recommendation for a council decision authorising the opening of negotiations on a status agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro. Available at: https://www.statewatch.org/media/3549/eu-frontex-status-agreement-com-recommendation-montenegro-14062-22.pdf
[155] European Commission, (Brussels, 8.11.2023). SWD(2023) 694 final. Commission Staff Working Document. Montenegro 2023. Report Accompanying the document. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023. Communication on EU Enlargement policy. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_694%20Montenegro%20report.pdf
[156] Council of the European Union, (Brussels, 8 May 2023) (OR. en). Interinstitutional File: 2023/0101 (NLE) 8354/23. Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro. Available at: https://data.consilium.europa.eu/doc/document/ST-8354-2023-INIT/en/pdf
[157] European Commission. Press release (16 May 2023). *Border management: EU signs status agreement with Montenegro.* Available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_2764
[158] Council of the European Union, (Brussels, 8 May 2023) (OR. en). Interinstitutional File: 2023/0101 (NLE) 8354/23. Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro. Available at: https://data.consilium.europa.eu/doc/document/ST-8354-2023-INIT/en/pdf
[159] Information provided by an undisclosed source.

processing, identification and registration of people on the move with the aim of developing national capacities in accordance with the EURODAC. Under the IPA III project, Individual Measure to Strengthen Border Management Capacities in Favour of the Western Balkans, Montenegro will receive funds towards this aim.[160] A part of this project was already implemented in May 2023 with the support of IOM and UNHCR as implementing partners. UNHCR has provided four kits for electronic identification and registration so far and is currently working on putting them into operation. Furthermore, IOM is in the process of procuring five more kits with the aim of connecting them to INTERPOL databases to perform further checks on people on the move entering into the country.[161]

Supposedly, a Fundamental Rights Impact Assessment (FRIA) was conducted by the Commission which concluded that Article 44 of the Montenegrin Constitution[162] guarantees the right to asylum, and the Law on International and Temporary Protection of Foreigners[163] protects the principle of *non-refoulement* by forbidding the expulsion of any third country national in cases where they may be subject to torture, inhuman or degrading treatment. They further state that the border police of Montenegro fully apply the principle of *non-refoulement* according to this law and individuals have full access to asylum procedures in the country. Whilst this may be the case on paper, the BVMN has recorded a pushback from Montenegro despite not having any operational reporters there, suggesting that the numbers may be far higher. Additionally, as an accession country, Montenegro is not required to fulfil the requirements on reception or procedural and return guarantees as outlined in the CEAS. Therefore, it is impossible to state that the conditions for receiving asylum seekers are equivalent to those in EU Member States. Nevertheless, the progress being made with Frontex, under the IPA II, and with regards to the EU Action Plan for the Western Balkans suggests further EU Member States will move towards returning individuals to Montenegro as an STC.

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[160] Council of the European Union, (Brussels, 25.10.2022) COM(2022) 692 final SENSITIVE* *Recommendation for a COUNCIL DECISION authorising the opening of negotiations on a status agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro.* Available at: https://www.statewatch.org/media/3549/eu-frontex-status-agreement-com-recommendation-montenegro-14062-22.pdf
[161] Information provided by an undisclosed source.
[162] Constitution of Montenegro. Available at: https://www.constituteproject.org/constitution/Montenegro_2013
[163] Decree promulgating the law on international and temporary protection of foreigners. Available at: https://www.refworld.org/docid/48650f132.html

▶ Serbia

In 2022, the number of asylum seekers in Serbia remained low but it continued to be a common transit country. The number of people on the move registered by state authorities reached almost 120,000[164] but only 4,243 individuals expressed the intention to seek asylum according to official statistics. Of the 2,302 asylum cases resolved in 2022, only 10 individuals received refugee status and 20 received subsidiary protection. Whilst absconsions were registered for 257 cases, there are still a large number of individuals who applied for international protection and were unable to access it according to these figures.[165] Additionally, reports of violence against people on the move within the interior of the country have considerably ramped up in the year 2023. BVMN monthly reports, with inputs from member organisations acting in the region, document a campaign across Northern Serbia that resulted in the evictions from informal living sites for people on the move. Due to capacity limitations in official reception centres, and complaints about conditions,[166] people on the move often reside instead in squats. In fact, in April and May 2023 the formal Transit Centres accommodating people on the move were increasingly subject to mass evictions to create space for new arrivals. In one documented incident during an eviction at Sombor Transit Centre, a video shows two Serbian police officers excessively kicking, stamping on and beating with batons two individuals during the eviction.[167] Alongside the conditions in state-run facilities, informal squats have also been targeted. In June 2023, Bojan Šoralov, the leader of the North Bačka administrative region, pledged almost daily evictions of these sites.[168] BVMN member, Collective Aid, documented high levels of violence accompanying these evictions, namely beatings with batons, abuse, theft of belongings, and the destruction of property and temporary infrastructure.[169] These operations are carried out by joint units of the local, national and military police. Of the 27 evictions reported in July 2023, 10 included violence and nine involved theft and the destruction of property. These actions are ongoing, and the BVMN September monthly report[170] further documented the continued presence of the military police who have conducted violent, armed evictions that primarily occur late at night to avoid public scrutiny. Despite all this, Serbia is one of the key partners of the EU under the Western Balkans Action Plan and the presence of Frontex has been considerably ramped up in 2023.

[164] European Council of Refugees and Exiles, (2023 May) *2022 Update AIDA Country Report: Serbia*. Available at https://ecre.org/2022-update-aida-country-report-serbia/

[165] European Commission, (Brussels, 8.11.2023) SWD(2023) 695 final. *Serbia 2023 Report*. Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2023 Communication on EU Enlargement policy . Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_695_Serbia.pdf

[166] Collective Aid and Medical Volunteers International (April-May 2023). *Northern Serbia. Advocacy Report. Observations and Trends in Pushbacks, Border Violence and Conditions in Northern Serbia*. Available at: https://medical-volunteers.org/advocacy-report-april-may-subotica-pdf_compressed.pdf

[167] Video of Sombor Transit Centre Eviction (24 April of 2023). Available at: https://www.youtube.com/watch?v=xCC0witH9a0&ab_channel=nodrogeitak

[168] N1info (17 June of 2023) *Uhapšeno dvoje učesnika oružanog sukoba krijumčarskih grupa u Subotici*. Available at: https://n1info.rs/vesti/uhapseno-dvoje-ucesnika-oruzanog-sukoba-krijumcarskih-grupa-u-subotici/

[169] The Border Violence Monitoring Network. (2023 September). *Balkan Regional Report, July 2023*. Available at: https://borderviolence.eu/reports/balkan-regional-report-july-2023-2/

[170] The Border Violence Monitoring Network. (2023 November). *Balkan Regional Report, September 2023*. Available at: https://borderviolence.eu/reports/balkan-regional-report-september-2023/

On July 11, 2023, at approximately 4:45PM the respondent, originally from Syria, reported the arrival of law enforcement authorities in the northern Serbian forest. There was one Serbian police car, two unmarked black 4x4 cars, and two black transportation vans. An estimated 10 officers were involved in the operation. Individuals present were subjected to physical assault with batons and coerced to the ground, where they faced verbal abuse ("motherfucker"), and were subsequently robbed. The group were forced to hand over their bags, which the officers went through, taking any valuables such as money, phones, shoes, and cigarettes. The bags, along with their contents, were set on fire.

One man reported that medicine bought from a pharmacy was found in his bag. The police tried to force him to sign some papers written in Serbian, but he refused without a lawyer or translator. The police then said he had to show proof of purchase of the medicine otherwise he would be arrested. There were two families present, consisting of four women and two children under the age of 10.

Individuals were subsequently loaded into two police vans. One van transported individuals to the Kikinda State Reception Camp, while the other, carrying the families, was directed to Belgrade. Those taken to the Kikinda camp reported being denied access to food and water for approximately two hours.
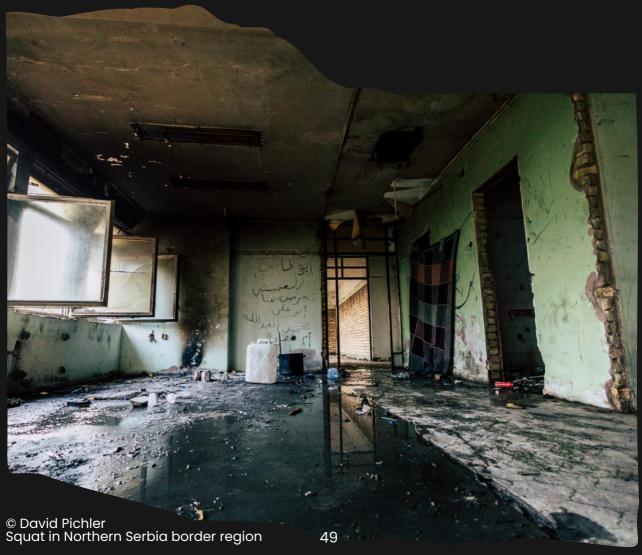
In BVMN's monthly report of February 2023,[172] observations from organisations active in Northern Serbia confirmed the presence of Frontex officers on the Croatian and Hungarian borders for the first time. In one interaction, a Serbian officer disclosed to team members that as of January 2023 there were 20 German, six Austrian and two Lithuanian officers working as Frontex team members in Northern Serbia. Civil society have also voiced concerns over Frontex offers involvement in rights violations alongside national authorities in Serbia.[173] Testimonies from people on the move indicate Frontex involvement in violent evictions—including direct threats of violence from the officers themselves. Again, given Frontex's role under EUROSUR and EURODAC, their increased presence in the country gives rise to further concern when considering their potential involvement in data-exchanges regarding the biometrics of people on the move.

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[171] Testimony collected by Collective Aid. Not yet available on the BVMN website.

[172] The Border Violence Monitoring Network. (2023 April). *Balkan Regional Report, February 2023*. Available at: https://borderviolence.eu/reports/balkan-regional-report-february-2023/

[173] Collective Aid and Medical Volunteers International (April-May 2023). *Northern Serbia. Advocacy Report. Observations and Trends in Pushbacks, Border Violence and Conditions in Northern Serbia*. Available at: https://medical-volunteers.org/advocacy-report-april-may-subotica-pdf_compressed.pdf

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Squat in Northern Serbia border region

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> ## Testimony - Verbal Harassment and Theft by Frontex officers in Northern Serbia[174]
>
> The group, composed of ten individuals from Syria, Morocco, and Somalia, living in a makeshift camp in the woods in northern Serbia, reported that five German Frontex agents entered the place and demanded 100 to 150 euros from each person present. The respondent stated that if they didn't have money to give to the Frontex agents, they would steal their phones or other personal belongings. The transit group claimed that this is a common practice by the agents, who usually, when accompanied by Serbian police, witness the destruction of informal camps and personal belongings of those on the move. However, when they come alone, they threaten, insult and steal money from the individuals present. The group reported that police authorities, both Serbian and international, visit the informal camps at least two or three times a day, destroying or stealing the personal belongings of the people living there.
>
> ***
>
> The respondent reported that on July 31, 2023, two black police 4X4 vehicles arrived, transporting five officers. It was asserted by the respondent that among them was an officer from the Netherlands. The respondent described that the police ordered individuals to sit down with physical force, involving beatings and kicks. Torches were used to shine light directly into people's eyes, and those who attempted to speak were subjected to further kicks. Following the violence, the respondent stated that all members of the group underwent searches, and their cigarettes were confiscated. Notably, two families with children as young as 7 were present during these events.

Nevertheless, Serbia is the country that is farthest along the path of developing biometric databases that are compatible with EURODAC. One specific objective of IPA II was the establishment of a fingerprint database at the national level in Serbia for "asylum seekers" and so-called "irregular migrants." The project proposed to do so in two ways: (1) to conduct an analysis of the existing capacities of the Border Police in terms of registration and exchange of asylum seekers' data, and (2) reorganise the current data registration and exchange system. In practice, this meant creating a form of interoperability or connection between different national databases, with the Border Police being at the centre of this system: not only collecting data directly, but also bringing together data from other Serbian institutions (ex. Criminal Police, the Traffic Police, the Police Directorate, the Directorate for Administrative Affairs and Local Police units).

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[174] Testimonies collected by Collective Aid, not yet available on the BVMN website.

Per a 2022 report from the European Commission, Serbia now hosts a fully functional biometrics database and a system for automated fingerprint identification (AFIS) within the Ministry of the Interior; both of these are used for registering 'irregular migrants' and asylum seekers.[175] Efforts towards the creation of EURODAC compatible databases can be traced to the *Action Plan for Chapter 24 – Justice, Freedom and Security* released by the Serbian Government in 2020, which mentions specifically the aim of amending the national legislation to comply with the acquis communautaire.[176] In this document, a roadmap is proposed to identify legal, strategic and technical steps needed to connect the system to enable future operations in relation to the EURODAC and Dublin regulations.[177] So far, this has included changes in law in Serbia to align national practices with EU regulations.[178] In this framework, on March 15 2023, a Data Protection Strategy was proposed by the Serbian Ministry of Justice. Strong collaborations also already exist between Serbian law enforcement and Europol[179] and Interpol.[180] Further plans have been put in motion for the Liaison Officer at Europol to have direct access to the national police databases.[181]

Serbia's Interior Ministry Strategy 2018-2023 stipulated that Serbia would begin implementing Dublin Regulations (now RAMM under the New Pact) and EURODAC provisions two years before joining the EU. This point was re-emphasized in the 2022 Commission report, stating that preparations for EURODAC in Serbia were under way, and focusing on the internal interconnectivity of databases, connection to the central EURODAC server and a satisfactory level of automatisation to create an efficient registration procedure.[182] In March 2023, the Data Protection Strategy Proposal for 2023-2030 was released, calling for input from stakeholders. The stated goal of this proposal is the harmonisation of Serbian data protection legislation with the EU acquis, "resulting in obtaining EU decision on the adequate protection of personal data and resulting in a free flow of personal data with EU."[183] In the Commission's 2023 EU Enlargement report on Serbia, it is stated that "Serbia has developed a roadmap for

[175] European Commission. (2022). *Serbia 2022 Report*. Available at: https://www.stat.gov.rs/media/358410/serbia-report-2022-1.pdf

[176] Government of the Republic of Serbia. (2020). *Action plan for chapter 24 - justice, freedom and security*. Available at: http://www.mup.gov.rs/wps/wcm/connect/9be2669f-e783-4911-9471-7f20ae6145ce/Revised+AP24_worksheet.pdf?MOD=AJPERES&CVID=nbcua4H

[177] European Commission. (2022). *Serbia 2022 Report*. Available at: https://www.stat.gov.rs/media/358410/serbia-report-2022-1.pdf

[178] Government of the Republic of Serbia. (2020). *Action plan for chapter 24 - justice, freedom and security*. Available at: http://www.mup.gov.rs/wps/wcm/connect/9be2669f-e783-4911-9471-7f20ae6145ce/Revised+AP24_worksheet.pdf?MOD=AJPERES&CVID=nbcua4H

[179] Europol. (2014). *Agreement on Strategic Cooperation between the Republic of Serbia and the European Police Office*. Available at: https://www.europol.europa.eu/sites/default/files/documents/republic_of_serbia_.pdf

[180] Interpol. (2018 September). *INTERPOL and Serbian Presidents discuss enhanced cooperation in combating crime*. Available at: https://www.interpol.int/en/News-and-Events/News/2018/INTERPOL-and-Serbian-Presidents-discuss-enhanced-cooperation-in-combating-crime

[181] Government of the Republic of Serbia. (2020). *Action Plan for Chapter 24: Justice, Freedom, and Security*. Available at: http://www.mup.gov.rs/wps/wcm/connect/9be2669f-e783-4911-9471-7f20ae6145ce/Revised+AP24_worksheet.pdf?MOD=AJPERES&CVID=nbcua4H

[182] European Commission. (2022). *Serbia 2022 Report*. Available at: https://www.stat.gov.rs/media/358410/serbia-report-2022-1.pdf

[183] JPM Jankovic Popovic Mitic. (April 2023.) *Serbia – Data Protection Strategy Proposal for 2023-2030*. *CEE Legal Matters*. Available at: https://ceelegalmatters.com/briefings/22808-serbia-data-protection-strategy-proposal-for-2023-2030

enabling enabling future operations in relation to the EURODAC and Dublin Regulations, containing steps on legal, strategic, technical and training-related preparations."[184] This raises serious concerns regarding the personal data protection of people on the move. The collection and storage of data pertaining to both "asylum seekers" and "irregular migrants" in the same database risks contributing to the increasing—and unjustified—overlap between criminal law and migration management. Further, Serbian databases may be used to establish a connection or "proof" that an asylum seeker transited through the country before arriving in a Member State, potentially leading to enforced return. Taken in the context of an increased focus on returns from EU to Western Balkan countries and from Western Balkan countries to countries of origin—as well as systematic pushbacks perpetrated by Serbian authorities—safeguards must be put in place to protect the fundamental rights of people on the move.

Testimony – Serbia to North Macedonia[185]

The respondents shared that on 3 April 2020, at around midday, a large number of Serbian police officers dressed in black tops, green trousers and carrying guns entered Tutin camp in cars/jeeps. The respondents say that the officers came to the main square of the camp and ordered camp residents to exit the buildings where they were staying. […] The sixteen people referred to in this case were placed into a van by the Serbian Special Forces at approximately 14:00. The conditions inside the van were extremely cramped, and they were forced to stand or sit on top of one another.

Rather than taking them to the camp in Prescevo as stated, the authorities brought them to a remote area of hills and ordered them to cross into North Macedonia. The Serbian officers pointed guns at them and told them to leave: *"They say 'go go'—with their guns."* The respondent said that some officers struck members of the group with fists or shoved them, and that the group had to run in order to avoid being hit/punched. The man with the existing head injury felt faint and passed out after running from the officers. After stopping, the group identified that they had been pushed back into North Macedonia close to the town of Lojane.

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[184] European Commission, (Brussels, 8.11.2023) SWD(2023) 695 final. *Serbia 2023 Report*. Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2023 Communication on EU Enlargement policy . Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_695_Serbia.pdf

[185] Border Violence Monitoring Network. 2020. *Pushed back from camp in Serbia to N. Macedonia, and then to Greece*. Available at: https://borderviolence.eu/testimonies/april-3-2020-2300-border-of-srb-mnk-close-to-lojane/

▷ <u>Bosnia-Herzegovina</u>

In 2022, the number of people detected in 'irregular transit' also increased in Bosnia-Herzegovina (BiH). State authorities detected 27,429 'irregular arrivals' compared to 15,740 in 2021. Of those, 25,709 expressed their intention to seek asylum and the majority of those were from Afghanistan, Burundi and Bangladesh. From that group, 149 individuals actually lodged applications for international protection. None of them were granted refugee status, and only 46 were granted subsidiary protection. Again, whilst some explanation can be found in the high rate of abscۣonsion due to BiH being considered a transit country, the fact that not a single person was granted refugee status in BiH in 2022 is cause for concern. Conditions in the state-run camps in the country, as documented by BVMN member organisations, are also poor. In April of 2022, the Miral camp was closed and up to 200 residents were forcibly evicted and moved to Lipa camp.[186] Lipa is located far from any urban centre, and individuals have complained of a lack of privacy and poor hygienic conditions.[187] Furthermore, in BVMN's February monthly report[188] plans to construct a detention centre inside of Lipa camp for new arrivals were revealed. The EU Commissioner for Neighbourhood and Enlargement, Olivér Várhelyi, pledged a further 500,000 euros for a pilot project in Lipa in November 2022[189] for the purpose of keeping detention facilities under control "meaning that the fake asylum-seekers must be detained until they return to their countries."

It's not only formal deportation operations that give rise to concern. BiH authorities also engage in pushbacks that sidestep any legal procedures and directly place people on the move in other countries without individualised assessment of the risk of *refoulement.* In January 2023, BVMN recorded a pushback of three individuals to Serbia; pushbacks from Bosnia are not an unusual occurrence. In September 2020, during the Covid-19 pandemic, KlikAktiv (Center for Development of Social Policies) also reported an increase in the number of pushbacks from Bosnia, resulting in a high number of deaths and drowning in the Drina River.[190] Deaths in the Drina River have become increasingly routine—whether in connection with transit or pushbacks. In August 2023, BVMN reported on the resurfacing of four bodies along the riverbed in the space of one month.[191] In light of the above information, it is difficult to understand how the EU can continue to pour money into a third state that is routinely engaged in rights violations and has inadequate reception conditions, whilst still upholding the rights of people on the move.

[186] Infomigrants, (2022, April) *Bosnia: Migrants moved to Lipa camp by authorities*. Available at: https://www.infomigrants.net/en/post/40170/bosnia-migrants-moved-to-lipa-camp-by-authorities
[187] Infomigrants, (2021 March). *'Help the refugees stuck in Bosnia,' implores Lipa camp resident in letter to EU*. Available at: https://www.infomigrants.net/en/post/30875/help-the-refugees-stuck-in-bosnia-implores-lipa-camp-resident-in-letter-to-eu
[188] The Border Violence Monitoring Network (2023 April). *Balkan Regional Report, February 2023*. Available at: https://borderviolence.eu/app/uploads/Monthly-Report-February-1.pdf
[189] Delegation of the European Union to Bosnia and Herzegovina & European Union Special Representative in Bosnia and Herzegovina (2022, November). *Commissioner Olivér VÁRHELYI in Bosnia and Herzegovina: Migration – Signature ceremony*. Available at: https://www.eeas.europa.eu/delegations/bosnia-and-herzegovina/commissioner-oliv%C3%A9r-v%C3%A1rhelyi-bosnia-and-herzegovina-migration-%E2%80%93-signature-ceremony_en?s=219
[190] Klikaktiv. *Deaths at the Serbian-Bosnian border*. Available at: https://klikaktiv.org/journal/deaths-at-the-serbian-bosnian-border
[191] The Border Violence Monitoring Network. (2023 November). *Balkan Regional Report, September 2023*. Available at: https://borderviolence.eu/app/uploads/BVMN-Monthly-Report-September-2023-.pdf-1.pdf

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Squat in Northern Bosnia and Herzegovina border region

© Blindspots
Squat in Northern Bosnia and Herzegovina border region

Nevertheless, Bosnia and Herzegovina (BiH) has received the highest level of assistance compared to other Western Balkan states when it comes to developing national biometric registration capabilities. Since the early 2000s, the Commission has supported BiH, both financially and technically, in the creation of the Migration Information System (MIS), making it now one of the most developed information sharing systems in the region. Analysing how this has come to pass is useful in understanding EU priorities within the region and what to expect with the funding of similar systems in other Western Balkan states.

The Migration Information System officially launched on 15 October 2007. Conceived under the leadership of the Ministry of Security to record and monitor the movements of people on the move in BiH, the system was designed to enable information exchange between all authorities active on topics of migration (Ministry of Foreign Affairs, the Border Police, the Ministry for Human Rights and Refugees and the Service for Foreigners' Affairs). The Agency of Intelligence-Security and police also have access to the database. The outcome of this project was stated as the following:

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[192] The Border Violence Monitoring Network. (March 17, 2023). *We wish no harm to anyone, and our respect for the police is like the respect for our parents*. Available at:
https://borderviolence.eu/testimonies/march-17-2023-sremska-raca-serbia/

"The Border Police will at the touch of a button be able to access all relevant data on a foreign national including visa applications, previous migration history and criminal register."[193]

The EU provided 920,000 euro for the establishment of this system. Initially funded via a 2003 Community Assistance for Reconstruction, Development and Stabilisation (CARDS) project, the support was later extended through one of the components of CARDS 2005, entitled "Support to Migration Management Capacities in BiH," implemented by the IOM in collaboration with the BiH Ministry of Security.[194] IPA 2007 later served to fund additional biometric passport scanners linked to the MIS with an amount of 280,000 euro.[195] In 2010, a project funded by the Dutch Immigration and Naturalization Service and the Danish Immigration Service contributed an additional 750,000 euro towards the "testing and bug-fixing" of the MIS and the creation of a database of recipients of international protection, interoperable with the MIS.[196]

EU support continued during the 2010s, increasing towards the end of the decade. The IPA fund for 2017 included 2.5 million euros to upgrade the MIS, including the purchase and integration of hardware and software for obtaining, archiving and processing foreigners' biometric data. In 2018, a further 3.5 million euros was provided through a project to replace the existing AFIS/APIS system, obtained in 2004, to enable more precise entry of fingerprints and palm prints.[197] This project included the procurement and installation of two "redundant sites" as centres of the AFIS/APIS system and "dactyloscopic workstations with the associated equipment and a software" with a goal of reaching 26 locations for entering, processing and identifying fingerprints and palm prints. Most importantly, the new system was built in line with EU technical standards to enable international data exchanges. The program was also intended to include training to ensure a full use and maintenance of the system. A call for tender was published in April 2021,[198] but in November 2023 the European Commission annual report on BiH stated that the establishment of this new system

[193] Council of Ministers of Bosnia and Herzegovina. (2010). *Update of further measures undertaken to the second readiness report on the implementation of the road map for visa liberalisation*. Available at: http://www.esiweb.org/pdf/schengen_white_list_project_bosnia_UPDATE%20OF%20FURTHER%20MEASUR ES.pdf
[194] Delegation of the European Union to Bosnia and Herzegovina & European Union Special Representative to Bosnia and Herzegovina. (2007). *Migration Information System*. Available at: https://europa.ba/?p=33641
[195] Council of Ministers of Bosnia and Herzegovina. (2010). *Update of further measures undertaken to the second readiness report on the implementation of the road map for visa liberalisation*. Available at: http://www.esiweb.org/pdf/schengen_white_list_project_bosnia_UPDATE%20OF%20FURTHER%20MEASUR ES.pdf
[196] Call for tenders - Assistance to the Ministry of Security, Ministry for Foreign Affairs, Ministry for Human Rights and Refugees and other competent authorities in effectively managing migration. Available at: https://webgate.ec.europa.eu/europeaid/online-services/index.cfm? ADSSChck=1676730840525&do=publi.detPUB&aoet=36537&Pgm=7573840&finpub=31/12/2010&aoref=1278 86&debpub=01/01/2010&page=6&nbPubliList=10&orderbyad=Asc&searchtype=AS&orderby=ctr&userlang uage=en
[197] EU delegation in Bosnia and Herzegovina. (2021, 28 January). *Regular IPA II assistance on migration & border control*. Available at: https://www.statewatch.org/media/2454/annexe-5-clean.pdf
[198] Call for tenders - EU Support to the Establishment of an Automated Fingerprint and Palm Print Identification System (AFIS/APIS). e-Tendering. Available at: https://etendering.ted.europa.eu/cft/cft-documents.html?cftId=8238

was still pending, and "long overdue."[199]

Under IPA 2020, the EU provided 2.5 million euros for the "upgrading and expansion of the Migration Information System through the expansion of the biometrics module and security and availability of data in MIS."[200] This second part included the delivery of an AFIS/APIS system, and of biometric identification and registration modules to 120 locations in BiH, especially to the Ministry of Security, to border crossing points, to border police units, to the Service for Foreigners' Affairs, and to the "Asylum sector." 121 fingerprint scanners, as well as 121 document readers and 131 computers were planned to be provided to BiH. While the call for tenders was eventually cancelled in November 2021,[201] this project is still relevant in understanding the broader goal of developing biometric registration capacities in BiH.

In parallel to the support from the EU, Switzerland also substantially supported the development of biometric data registration and sharing capacities in BiH through bilateral support. Between 2017 and 2019, the Swiss Secretariat for Migration (SEM) funded a project worth 900,000 CHF (904,286.7 Euros) to enhance data exchange between border police structures and with other law enforcement authorities. In practice, the main component of this project is the integration into the MIS of four registries, namely on asylum seekers, resident permits, visas registry and border crossing. The fact that these four areas of work are now integrated in the MIS means that, functionally, this system serves both law enforcement purposes (border enforcement, registering "illegal" border crossings and deportations) and as an asylum system. The project also aimed at ensuring "connections, exchange and interoperability between different institutions (within BiH) and with other information systems of police agencies outside of BiH (regional countries, Europol, Interpol and Frontex)."[202] Whilst Frontex is not yet present on BiH territory, there is a Council Proposal for a deal to be developed.[203]

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[199] European Commission. (Brussels, 8.11.2023) SWD(2023) 691 final. Bosnia and Herzegovina 2023 Report. Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2023 Communication on EU Enlargement policy. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_691%20Bosnia%20and%20Herzegovina%20report.pdf

[200] Council of the EU (2022): Recommendation for a council decision authorising the opening of negotiations on a status agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro. Available at: https://www.statewatch.org/media/3549/eu-frontex-status-agreement-com-recommendation-montenegro-14062-22.pdf; European Commission. (2022). Serbia 2022 Report. Available at: https://www.stat.gov.rs/media/358410/serbia-report-2022-1.pdf; EU delegation in Bosnia and Herzegovina. (2021, 28 January). Regular IPA II assistance on migration & border control. Available at: https://www.statewatch.org/media/2454/annexe-5-clean.pdf

[201] Call for tenders – Upgrade of the existing Migration Information System. Available at: https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1609684806272&do=publi.detPUB&nbPubliList=50&page=1&searchtype=QS&orderby=upd&orderbyad=Desc&aoref=140731&userlanguage=en

[202] Swiss State Secretariat for Migration. Support for efficient migration and border management in Bosnia and Herzegovina. Available at: http://migreurop.org/IMG/pdf/annexe_6_clean-2.pdf

[203] European Commission, (Brussels, 28.2.2019) COM(2019) 110 final 2019/0060 (NLE). Proposal for a COUNCIL DECISION on the conclusion of the Agreement between the European Union and Bosnia and Herzegovina on actions carried out by the European Border and Coast Guard Agency in Bosnia and Herzegovina. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:86ea00c7-3b47-11e9-8d04-01aa75ed71a1.0001.02/DOC_1&format=PDF

In sum the EU has, over the last 20 years, created from scratch and continuously upgraded the biggest migration information database in BiH, accessible to both asylum agencies and law enforcement authorities. This continuous support has been aimed at creating a system which conforms with EU standards, ultimately to enable data exchange with EU Member States and EU agencies.

One incident elucidates clearly the far-reaching implications these developments will have for the rights of people on the move. In March 2023, BVMN released a statement[204] regarding the mass deportations of people on the move from Croatia to Bosnia-Herzegovina. Croatian police launched an operation whereby they intercepted and detained people on the move *en masse*, and transported them by bus to official border crossing points where they were handed over to Bosnian authorities. Respondents reported that they were kept for hours in prison-like basement rooms in Croatian police stations, denied access to food and water, and then issued with a deportation decision to BiH. After several days, in some cases even weeks, spent in these inadequate facilities, Croatian authorities started transporting them to the border crossing point where they were then handed over to Bosnian authorities through a formal process of readmission.
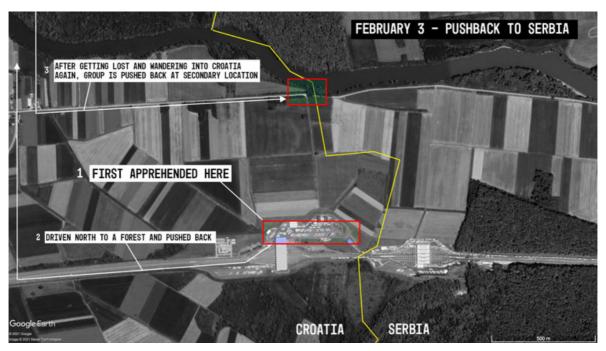
Testimony - Mass deportation from Croatia to Bosnia-Herzegovina[205]

"An unmarked van stopped us near the road. People inside didn't have police uniforms, but we saw they had guns and we understood they were policemen. They put us inside the van and took us to the police station. We didn't know what would happen to us and we were all very scared, they just kept yelling at us in their language and refused to speak English."

"They kept us in some kind of basement room without any explanation. We didn't know what we were signing or what would happen to us. We asked for help for the children, at least diapers and milk for the smallest ones, but we didn't get that either. A young man was asking for his glasses to be returned, but they just said "no." The women and children were very scared, I didn't know what to say to calm them down. After we stated several times that our children were hungry, we got bread and water. We slept on the floor for two days, and then they transferred us to another facility, where many people were kept in the same room with us."

[204] The Border Violence Monitoring Network. (2023, March). Press Release. *Croatia carries out mass deportations of people on the move to Bosnia and Herzegovina*. Available at: https://borderviolence.eu/app/uploads/BVMN-Press-release-Croatia-carries-out-mass-deportations-of-people-on-the-move-to-Bosnia.pdf
[205] *Ibid.*

Whilst this was done in the framework of a bilateral agreement between Croatia and Bosnia-Herzegovina, under the envisioned APR of the New Pact this would be possible on an EU level between Member States and third countries in the Western Balkans that are deemed "safe." Indeed, in August 2023 Croatia announced plans to establish a new reception centre in the abandoned military barracks located in the Dugol dol area, in the municipality of Krnjak.[206] The reception centre is designed to accommodate up to 1,500 individuals and involves the construction of 50 containers for temporary housing. It is possible that this centre is envisioned as the location for carrying out the screening provisions or border procedures envisioned in the Screening Regulation and Asylum Procedures Regulation of the New Pact. Its proximity to the border both facilitate the legal fiction of non-entry and easy returns to BiH through the STC principle. When read in the context of the Commission's 2023 Enlargement Report on Bosnia-Herzegovina,[207] this is particularly concerning. The Commission writes that BiH should "increase efforts to establish readmission agreements with countries of origin," and hails steps taken towards the operationalisation of readmission agreements with Pakistan, Bangladesh and Morocco. The pressure to step up returns procedures in BiH, as a third country that doesn't need to adhere to the EU's Returns Directive and its accompanying safeguards, coupled with the potential to increase returns from Member States to BiH will have devastating implications. In this way, the EU will seek to deport to countries of origin in a way that circumvents EU safeguards by using a stop-over in the Western Balkan countries. This is essentially a step towards the abolition of the right to asylum in Europe and the legalisation of procedures that may result in *refoulement*.

© Border Violence Monitoring Network
Pushback Map

[206] The Border Violence Monitoring Network. *Monthly report, August 2023*. Available at: https://borderviolence.eu/app/uploads/BVMN-Monthly-Report-August-2023-1-2.pdf-2.pdf
[207] European Commission, (Brussels, 8.11.2023) SWD(2023) 691 final. Bosnia and Herzegovina 2023. Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2023 Communication on EU Enlargement policy. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_691%20Bosnia%20and%20Herzegovina%20report.pdf

⯈ <u>Kosovo</u>

Kosovo's asylum system functions differently to other Western Balkan states in that individuals can either apply for asylum or make use of a 15-day period that is granted to decide whether or not they wish to apply for asylum or leave the territory.[208] In 2022, the number of registered people on the move decreased from 1,487 in 2021 to 957. During the first half of 2023, the numbers climbed again, with 308 new arrivals into Kosovo, suggesting a shift in the routes. 222 of these applied for the 15-day period guarantee, whilst 86 applied for asylum. With regards to asylum procedures, in 2022 Kosovo had recorded 550 asylum applications of which 25 were granted protection; by May 2023, 73 claims had been registered and protection granted to 13 people.[209] Nevertheless, as in other Western Balkan states, absconsion rates are again high due to it being considered a transit country for people on the move.

Historically, the main means by which Kosovo shared information regionally and at the EU level is through its National Coordination Centre (NCC) or the National Center for Border Management (NCBM). Located at the Ministry of Internal Affairs, it is composed of Border Police, Kosovo Customs, Food and Veterinary Agency representatives, and facilitates the inclusion of other authorities when necessary. Its goal is "to achieve effective coordination, facilitation of exchange of information and data and greater efficiency of the system for IBM."[210] It has been functional since 2013, and its enhancement has been supported by the EU: in 2022, its plans were the "design and construction of NCC building," the "procurement of furniture and requisite equipment," the "supply, delivery and integration of specialised equipment for functioning of NCC" and "capacity building and trainings."[211]

In Kosovo's strategy on Integrated Border Management for 2020-2025, Kosovo states that the NCBM "has the ability to coordinate operational measures with other EU Member States and third countries."[212] Cooperation with neighbouring countries, such as Albania, Montenegro and North Macedonia is heavily emphasised. In general, this cooperation is considered to be successful due to regular meetings at central, regional and local levels. The strategy document further stresses the importance of appropriate mechanisms for exchange of information, joint risk analysis, joint border patrols and operations. Bilateral and multilateral contact points with neighbouring countries are further identified as a key aspect of Kosovo's strategy on IBM.[213]

The centre has an Operational Coordination Chamber (OCC) that serves as the national point of contact for real-time information exchange. These OCCs reportedly have access to "all relevant databases" as well as full video surveillance of all border

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[208] European Commission, (Brussels, 8.11.2023) SWD(2023) 692 final. Kosovo* 2023 Report. Accompanying the document. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2023 Communication on EU Enlargement policy. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_692%20Kosovo%20report_0.pdf
[209] *Ibid.*
[210] Government of the Republic of Kosovo. *The State Strategy of the Republic of Kosovo in Integrated Border Management 2020-2025.* Available at: https://mpb.rks-gov.net/Uploads/Documents/Pdf/EN/364/Strategjia%202020-2025%20,%20ANG.pdf
[211] *Ibid.*
[212] *Ibid.*
[213] *Ibid.*

crossing points. Information is exchanged through standardised forms in line with EU practices, however the databases it encompasses are not specified in the available documentation.[214]

Regarding further international cooperation, Kosovo Border Police has signed Operational and Working Agreements with Frontex, which are often predecessors to the full Status Agreements that have been implemented in other Western Balkan countries.[215] Since then, Kosovo Police has contributed data to the WB-RAN and participates in Frontex activities. According to the Commission's 2023 EU Enlargement report on Kosovo,[216] Frontex is now deployed to several border crossing points and the country participates in several regional exercises organised by the Agency. Further, in order to develop and enhance communication and information exchange at an international level, Kosovo has signed a working arrangement with Europol and memorandum of understanding with Interpol.[217]

In April 2023, the first Europol Liaison Officer was instated with the role of connecting the Kosovo Police to the various police services in the European Union and Europol. [218] The 2023 Enlargement report states that Kosovo has enhanced its cooperation with Europol, and the SIENA connection is now fully operational.[219] To date, Kosovo's bid for Interpol membership has not gathered the sufficient number of votes in the Interpol General Assembly.[220] Additionally, the Enlargement report states the need for further development of the Kosovo Border Police's capacity in the area of protection-sensitive migration needs to be further strengthened. Qualified interpreters are needed to service the asylum and detention centres and the Border Police. Furthermore, the distinct lack of biometric equipment and interoperability of data affects the efficiency of initial registration and further processing. In this sense, it seems Kosovo is potentially one of the furthest Western Balkan states from achieving interoperability; however, through other connections with Frontex and Europol, it is well along the path to do so.

[214] *Ibid.*
[215] European Commission. (2015). *Working Arrangement on establishing operational cooperation between the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) and the Ministry of Internal Affairs of Kosovo.* Available at: https://frontex.europa.eu/assets/Key_Documents/Working_Arrangements/WA_with_Kosovo.pdf
[216] European Commission, (Brussels, 8.11.2023) SWD(2023) 692 final. Kosovo* 2023 Report. Accompanying the document. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2023 Communication on EU Enlargement policy. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_692%20Kosovo%20report_0.pdf
[217] Interpol. *Memorandum of Understanding between the International Criminal Police Organization-Interpol and United Nations Interim Administration Mission in Kosovo.* Available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjN4ZqC8ZL-AhUYxwIHHYDUB8sQFnoECBkQAQ&url=https%3A%2F%2Fwww.interpol.int%2Fcontent%2Fdownload%2F10980%2Ffile%2FINTERPOL-UNMIK.pdf&usg=AOvVaw2hsk1P7aYj0xulN_1trvB_
[218] Countering Serious Crime in the Western Balkans: IPA 2019. (2023, April). *Liaison officer from Kosovo installed to EUROPOL.* Available at: https://cscwb.info/2023/04/03/kosovo-liaison-europol/
[219] European Commission, (Brussels, 8.11.2023) SWD(2023) 692 final. Kosovo* 2023 Report. Accompanying the document. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2023 Communication on EU Enlargement policy. Available at https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_692%20Kosovo%20report_0.pdf
[220] Simić, Julija. (2018). *Serbia scores victory as Interpol rejects Kosovo membership EURACTIV.* Available at: https://www.euractiv.com/section/enlargement/news/serbia-scores-victory-as-interpol-rejects-kosovo-membership

North Macedonia has long been a key country along the so-called Western Balkan route, likely due to the fact it borders the EU Member State of Greece. Greece's reception conditions were overwhelmed following the increased number of new arrivals from 2015 onwards,[221] resulting in asylum seekers increasingly engaging in secondary movement. In March 2016, thousands of people were left blocked at the Greece-North Macedonia border in Idomeni due to the closure of the formal humanitarian corridor.[222] They decided to march collectively across the border in what has been termed the "March of Hope,"[223] but were met with violence from Macedonian authorities who returned them to Greece. In April 2022, the European Court of Human Rights (ECtHR) disappointingly issued a decision[224] stating that this action was not in violation of the Charter in spite of it being a mass expulsion—prohibited under international and Union human rights law. They applied the case law from *N.D. and N.T. vs Spain*[225] and found that the manner in which the applicants tried to access the territory, in a march with thousands of others, amounted to culpable conduct on behalf of the applicants.

The number of individuals transiting through North Macedonia has significantly lowered since the so-called 2015 crisis, but it remains a key transit country in the route between Greece and the Northern EU Member States. In 2022, 168 asylum applications were submitted in North Macedonia with most applicants coming from Syria, Morocco, Afghanistan, Turkey and Iraq.[226] By the end of 2022, the Sector for Asylum had conducted 14 asylum interviews, rejected 20 applications, and granted no form of international protection. In fact, refugee status has not been granted to anybody in the country since 2016.

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[221] UNHCR, Briefing notes. *Pressure growing on Greek island of Lesvos, as 2015 refugee and migrant crossings of the Mediterranean top 100,000*. Available at:
https://www.unhcr.org/news/briefing-notes/pressure-growing-greek-island-lesvos-2015-refugee-and-migrant-crossings
[222] The Guardian, Patrick Kingsley (9 May 2016). *Balkan countries shut borders as attention turns to new refugee routes*. Available at: https://www.theguardian.com/world/2016/mar/09/balkans-refugee-route-closed-say-european-leaders
[223] European Council of Refugee and Exiles, (18 March 2016). *The "March of Hope": refugees in extreme humanitarian conditions try alternative crossing path*. Available at: https://ecre.org/the-march-of-hope-refugees-in-extreme-humanitarian-conditions-try-alternative-crossing-path/
[224] ECtHR, Case of A.A. and others v. North Macedonia. (Applications nos. 55798/16 and 4 others). Available at:
https://hudoc.echr.coe.int/fre#%7B%22tabview%22:%5B%22document%22%5D,%22itemid%22:%5B%22001-216861%22%5D%7D
[225] ECCHR, ND and NT v. Spain, *A major setback for refugee protection: ECtHR dismisses complaint against Spain*. Available at: https://www.ecchr.eu/en/case/nd-and-nt-v-spain/
[226] Council of the European Union. (Brussels, 11 October 2022) (OR. en) 12896/22. Interinstitutional File: 2022/0300 (NLE). Agreement between the European Union and the Republic of North Macedonia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of North Macedonia. Available at: https://data.consilium.europa.eu/doc/document/ST-12896-2022-INIT/en/pdf; European Commission, (Brussels, 8.11.2023). SWD(2023) 693 final. North Macedonia 2023 Report. Accompanying the document. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2023 Communication on EU Enlargement policy https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_693%20North%20Macedonia%20report.pdf

New arrivals from Greece are taken to the Vinojug Temporary Transit Centre (TTC) in the border town of Gevgelija which is a closed camp fortified with militarised elements such as barbed wire and surveillance cameras. Those who express their intention for asylum should be transferred to the Asylum Centre in Skopje: an open centre where they can stay for the duration of their procedure. Individuals who are apprehended upon exit or after having been pushed back from Serbia are accommodated in the Tabanovce TTC which is also an open centre. The differences between the two TTCs at the entry and exit borders to the country suggest how movement in is penalised, and movement out is somewhat facilitated, with few barriers to people being able to leave the camp in Tabanovce and transit irregularly into Serbia.[227] In line with this, North Macedonia routinely conducts pushbacks from its territory into Greece. Since 2022, the BVMN field team based in Northern Greece have documented 65 testimonies of pushbacks from North Macedonia, impacting 783 individuals.[228] Transit groups with families, including women and children, have indiscriminately been subjected to pushbacks and violence in the form of beatings and dog attacks, and confiscation and destruction of personal belongings have also been documented.[229]

© Border Violence Monitoring Network
North Macedonia - Greece Border Fence

[227] Information based on observations from BVMN field assessments.
[228] The Border Violence Monitoring Network, Database of testimonies. Available at: https://borderviolence.eu/testimonies/
[229] Border Violence Monitoring Network. 2022. *The Black of Pushbacks*. Available at: https://left.eu/issues/publications/black-book-of-pushbacks-2022/ See: North Macedonia chapter.

Testimony - North Macedonia to Greece[230]

The primary respondent for this testimony was a 47-year-old man from Afghanistan, travelling in a group of approximately 20 people, including two families with small children. During their transit attempt through North Macedonia, the group was initially apprehended around midnight by Macedonian authorities in a village close by the Greek border on 14 August 2020. According to the respondent, the police officers approached the group and became physically violent. The officers struck various group members with their batons. Others were pepper-sprayed, including the women and children. After this, the officers loaded the group into a van and left them there without any air conditioning, jammed, soaking in sweat for around two hours, while they went to catch more transit groups. In the end, they squashed around 40 people in a van fit for ten persons.

"Even the Talibans of Afghanistan treat people better than these people. They don't care about human rights or anything," recalled the respondent.

After this time spent waiting, the van brought the group to the bank of the Vardar river, where the officers took their shoes, bags and extra clothes and threw everything into the river. The officers also took their mobile phones and money, stating that it was to prevent them from crossing the border into North Macedonia again right away. According to the respondent, the group was beaten brutally with metal electroshock batons and some people were thrown into the river by the police. One person was thrown in, despite crying and begging not to be thrown in.

After the beating at the riverside, the people were taken to a police station nearby, where the police officers took their photographs, which took between 30 and 60 minutes. The respondent described that if the officers realised that a person had been apprehended in North Macedonia previously, they were the victim of further physical violence. None of the group members were given a chance to ask for asylum during this time. They were not given any food or water, and had no access to toilets. In the station, they had to squat with their hands joined behind their neck and their heads down. If someone asked to go to the toilet, the police kicked them.

After this, the group members were taken to the border by van. The policemen opened the gate in the fence, and started pushing people through by beating them with electroshock batons.

[230] Border Violence Monitoring Network. 2020. *People beaten with metal batons and thrown into river.* Available at - https://borderviolence.eu/testimonies/august-14-2020-0200-gevgelija-area-near-the-border-north-macedonia/

Coupled with the fact that there has been no granting of refugee status in the country since 2016, it is evident that the right to asylum is not being upheld. Additionally, the biometric data of those being pushed back is often collected in the TTC prior to them being returned and, as mentioned previously, the procedures are not accompanied by the safeguards for digital rights foreseen in the GDPR.

The way migration is managed in North Macedonia has significantly shifted with the introduction of Frontex in 2023. The Status Agreement was signed between the EU and the Republic of North Macedonia in February 2023 and included broad guidelines on information exchange and the establishment of "antenna offices" on North Macedonian territory which, while not specifically described as NCCs, seem to function as coordination hubs for data exchange.[231] In the now-implemented Status Agreement,[232] there are provisions for the "permissible consultation of databases" by Frontex staff. There is also a clause stating that the exchange of any classified and sensitive non-classified information shall be covered by a separate administrative arrangement that will be subject to the approval of the Commission. It is unclear whether such an arrangement has already been implemented. Furthermore, the Frontex "antenna offices" also set up a framework for operational cooperation for the purposes of EUROSUR, and the sharing of information needed in the establishment of situational pictures. The antenna offices are supposed to be managed by a representative of Frontex and are intended to enable and facilitate the operational activities of Frontex in North Macedonia. Furthermore, they are intended to "monitor the activities of the border management teams and regularly report to the Agency's headquarters," "support the coordinating officer [...] to monitor an operational activity in facilitating, where necessary, the coordination and communication between the border management teams and the relevant authorities of the Republic of North Macedonia as well as any relevant tasks."[233]

Frontex became operational in April 2023, and a six-week BVMN field assessment in the region combined with further information from the North Macedonian NGO Legis[234] revealed significant issues in the way they have shifted the handling of migration. Frontex is only operational at the border with Greece and has its office located in the Vinojug TTC. Frontex officers conduct joint patrols along the border with North Macedonian authorities and, upon apprehending groups, bring them to the TTC in order to conduct 'debriefing interviews.' North Macedonian authorities are not permitted to be present during these interviews, but lawyers from the NGO Macedonian Young Lawyers Association (MYLA) are brought in at the end to inform the

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[231] Official Journal of the EU. (2023, 27 February). *Agreement between the European Union and the Republic of North Macedonia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of North Macedonia*. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22023A0227(01)&from=EN

[232] Council of the European Union, (Brussels, 11 October 2022) (OR. en) 12896/22. *Interinstitutional File: 2022/0300 (NLE). Agreement between the European Union and the Republic of North Macedonia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of North Macedonia*. Available at: https://data.consilium.europa.eu/doc/document/ST-12896-2022-INIT/en/pdf

[233] Official Journal of the EU. (2023, 27 February). *Agreement between the European Union and the Republic of North Macedonia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of North Macedonia*. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22023A0227(01)&from=EN

[234] For more on their work see: https://legis.mk/

individuals of their right to apply for asylum. Most individuals now apply for asylum in the TTC to facilitate their transfer to the open Asylum Centre in Skopje. However, this is resulting in an increase of applicants, and no further support or funding has been provided to revamp the capacities of the centre accordingly. Reportedly, Frontex does not give advance warning as to when transfers will take place from the Vinojug TTC, meaning that rooms in the Asylum Centre are not prepared and the amount of food ordered is often inadequate to cater for new groups. Concurrently, there are reports that, when Frontex finishes their workday in the Vinojug TTC at 4pm, the North Macedonian authorities proceed to push people back, regardless of their intentions to apply for asylum. It is impossible to believe that Frontex officers are not aware of people being returned from the camp in which they work. Indeed, an inquiry to the Fundamental Rights Officer (FRO) of Frontex revealed that their office is aware of such allegations but have not yet been able to visit the TTC to confirm.[235] North Macedonia provides a salient case example of why the introduction of EU agencies and funding to step up 'migration management' capabilities in Western Balkan states does not result in an effective and functioning asylum system. Whilst more applications may be registered, financial support is funnelled into border monitoring and return capacities, rather than the development needed for reception conditions.

© Louise Schmidt
Lipa Camp, Bosnia and Herzegovina

[235] Information provided by an undisclosed source.

Conclusion

In sum, this paper evidences a dangerous paradigmatic shift in the methods for handling new arrivals to the EU that threatens the right to asylum and fortifies the outsourcing of responsibility for managing applications to third states. Through the EU's New Pact on Migration, people seeking safety will be fictitiously denied entry to EU Member States through the legal fiction of non-entry. Instead, they will be submitted to screening procedures that funnel them directly into accelerated asylum procedures at the external borders. The strengthening of safe country principles in the APR foments the possibility for individuals to be rejected on inadmissibility, and it is still unclear whether appeals to admissibility decisions will have a suspensive effect or not in the final version of the APR. If there is no suspensive effect, then individuals can be directly returned to "safe third countries" where their applications for international protection are supposed to then be assessed. Whilst these kinds of procedures have been ongoing bilaterally between Greece and Turkey and Italy and Libya for years, in many cases the actualisation of return decisions have halted due to numerous difficulties. In the case of Greece, returns to Turkey have been suspended since 2020. These difficulties are easier to navigate in the cases of the Western Balkan countries. Due to their geographic positioning at the very heart of the so-called Balkan route and their position as candidate countries, returns can be facilitated far more easily. The sections above have demonstrated why, for a litany of reasons and evidenced rights abuses, these countries cannot be considered 'safe' and there are no guarantees that asylum applications can be effectively processed and managed.

Nevertheless, the EU is continuing down this path and even seeks to speed up the process further through expansive digitalisation. The development of biometric data systems modelled on EURODAC and the EU's interoperability framework, on both a regional level as well as with EU institutions and Member States, paves the way for this starkly different future. Furthermore, the increasing overlap or interconnection of migration and criminal databases has the potential to contribute to the mounting unjust criminalisation of people on the move—further exacerbating difficulties in accessing asylum and international protection.

At the core of the issue is the tension between personal data protections, access to fundamental rights and the use of biometric systems as a tool for mass surveillance and data analysis. The possibility for biometric data systems in the Western Balkans to be connected to EU databases pre-accession raises serious concerns regarding the fundamental rights and personal data protections of people on the move. These concerns could have been met through increased safeguards and through foregrounding of the rights of people on the move in the Artificial Intelligence Act. The window for doing so is speeding towards closure at the end of 2023, and the safeguards that will remain for biometric systems and the functioning of large-scale EU IT databases are minimal. In this context, the expanded powers of EU agencies in practically implementing these systems stands as yet another troubling example of EU border externalisation, potentially circumventing existing safeguards for the rights of asylum seekers in the EU to increase capacities for returns to countries of origin. Doing so through returns to STCs in the Western Balkans would then exponentially increase the risk of chain *refoulement* through onward returns, simultaneously disguising the responsibility of EU Member States in the process.

Recommendations

New Pact on Migration:

The Asylum Procedures Regulation:
- Ensure the suspensive effect of appeals relating to inadmissability decisions in Art 36.
- Under Article 41, retain the Parliament position that border procedures are optional, not obligatory.
- Not move forward with an EU-wide list of Safe Third Countries.
- Provide for stringent checks on Member States who implement safe country concepts, namely:
    - The assessment of the country shall be based on a wide range of relevant and available resources, including from the UEAA, the UNHCR and civil society organisations.
    - Assessments shall be updated on a minimum yearly basis. Where significant changes occur to the country context, the assessment must be re-evaluated immediately.
    - All assessments will be made publicly available in an online database.
    - Assessments will additionally be reviewed on a yearly basis by the Commission with the assistance of the EUAA.
- Ensure for a truly Independent Monitoring Mechanism (IMM) that has an explicit mandate to monitor fundamental rights and has powers to bring judicial and/or other authorities to make measures to ensure their respect of fundamental human rights. The IMM must have unhindered access to centres where asylum procedures take place and must be able to make unannounced visits and request any of the documentation held there. The IMM must be reviewed every 6 months to ensure proper monitoring and evaluation. This could be done through a system of peer-review, facilitated by the ENNHRI, or another external advisory body. The IMM must be accessible to CSOs for the provision of data regarding rights violations, with transparent follow-up on next steps taken.

The Screening Regulation:
- Delete Article 4 providing for the legal fiction of non-entry.
- Reinstate Article 11(4b) of the Parliament position which states that "any consultation of Interpol databases [during the screening process] shall be performed only when it is ensured that no information is revealed to the owner of the Interpol alert."
- Ensure a public declaration—either through the EU Official Journal or on an EU website—on the authorities tasked with carrying out 'security checks' under the Screening Regulation.
- Ensure the screening authorities are also trained Data Protection Authorities who have sufficient resources to carry out the tasks required.
- Ensure that individuals subject to screening are immediately informed, in a language they understand, of their data protection rights under the GDPR and other relevant legislative instruments.
- Under Article 13 of the Regulation, ensure that individuals subject to screening are given a copy of the 'screening form' with any information that was gathered about them through the 'security checks' provided for under Article 11.

- Ensure for a truly Independent Monitoring Mechanism (IMM) under Article 7 that has an explicit mandate to monitor fundamental rights and has powers to bring judicial and/or other authorities to make measures to ensure their respect of fundamental human rights. The IMM must have unhindered access to both screening facilities and border surveillance activities, and must be able to make unannounced visits and request any of the documentation held there. The IMM must be reviewed every 6 months to ensure proper monitoring and evaluation. This could be done through a system of peer-review, facilitated by the ENNHRI, or another external advisory body. The IMM must be accessible to CSOs for the provision of data regarding rights violations, with transparent follow-up on next steps taken.

Returns Directive Recast:

- Uphold the suspensive effect of appeals made against any return decisions issued under the Article 16 of the Returns Directive in any recast of the text.

Artificial Intelligence Act:

- Include non-remote biometric identification systems and migration forecasting tools under Annex III of the AIA, categorising them as "high-risk" technologies.
- Under Article 83(1), remove the four year grace period for large-scale EU databases and subject them to the relevant safeguards as soon as the Act enters into force.
- Remove the blanket exemption for LEAs under Article 51, and subject them to the same safeguards provided for when using "high-risk" technologies as designated in Annex III.

Interoperability Framework:

- Remove the sharing of Europol-held third-country biometric data and Europol's ability to conduct biometric searches through the Prüm agreement by its own initiative.
- Lower the time limit during which Europol may store and use biometric information in accordance with rights to respect for private life and protection of personal data, where the retention period is limited on the basis of the data's potential usefulness and remains as short as possible.
- Ensure respect for the principle of purpose limitation by only pursuing interoperability solutions that do not go over the head of the person concerned, as stated in the EDPS Opinion on Interoperability.

In the Western Balkans:

- Increase safeguards regarding the transfers of biometric data conducted by EMLO and Frontex in accordance with personal data protections and the respect for private life, with clear limits on how long data may be stored, and for what purposes it may be accessed and used. Ensure every individual who is subject to the collection of their biometric data in Western Balkan countries is provided with information on their rights under the GDPR in a language they can understand.

- A Fundamental Rights Impact Assessment (FRIA) should be conducted by the Commission and the Fundamental Rights Agency (FRA) on Frontex's use of current and proposed biometric databases in the field of migration and border management, to ensure adherence to fundamental rights obligations.
- Initiate a package of IPA funding that is specifically to be utilised for the development of adequate, humane reception centres in line with EUAA standards. Monitor the construction of these centres and ensure they are sufficient for use before actualising any further return orders to Western Balkan states.

No.	Link	Perpetrating Country	Reporting Organisation	Notes
1	https://borderviolence.eu/testimonies/august-24-2022-1000/	Hungary	No Name Kitchen	Reported involvement of Frontex officers in an illegal pushback.
2	https://borderviolence.eu/testimonies/september-6-2019-2000-near-roszke-border-crossing-hungary/	Hungary	Escuela con Alma	Reported involvement of Frontex officers in an illegal pushback.
3	https://borderviolence.eu/testimonies/september-26-2020-2300-near-orestiada/	Greece	Josoor	Reported involvement of Frontex officers in an illegal pushback.
4	https://borderviolence.eu/testimonies/june-14-2021-1500-uzunkopru/	Greece	Josoor	Reported involvement of Frontex officers in an illegal pushback.
5	https://borderviolence.eu/testimonies/january-18-2021-0600-albanian-greek-border-south-eastern-albania/	Albania	Anonymous Partner	Reported involvement of Frontex officers in an illegal pushback.
6	https://borderviolence.eu/testimonies/june-1-2020-0700-trestenik-albania/	Albania	No Name Kitchen	Reported involvement of Frontex officers in an illegal pushback.

[236] For more on the member organisations who collected these reports see: Collective Aid (https://www.collectiveaidngo.org/), No Name Kitchen (https://www.nonamekitchen.org/), Pushback Alarm Austria (https://www.facebook.com/PushBackAlarmAustria/), Mobile Info Team (https://www.mobileinfoteam.org/). The other organisations mentioned in the Annex are now dissolved.

No.	Link	Perpetrating Country	Reporting Organisation	Notes
7	https://www.borderviolence.eu/violence-reports/august-21-2022-2300-near-madarasz-to-reservoir-area-hungary/	Hungary	No Name Kitchen	Reported collection of biometric data.
8	https://www.borderviolence.eu/violence-reports/may-22-2021-0500-military-border-crossing-close-to-subotica-serbia/	Hungary	Collective Aid	Reported collection of biometric data.
9	https://www.borderviolence.eu/violence-reports/february-27-2021-0005-near-kelebija-serbia/	Hungary	Collective Aid	Reported collection of biometric data.
10	https://www.borderviolence.eu/violence-reports/february-7-2021-1500-near-horgos-serbia/	Hungary	Collective Aid	Reported collection of biometric data.
11	https://www.borderviolence.eu/violence-reports/january-18-2021-1400-horgos-border-crossing/	Hungary	Collective Aid	Reported collection of biometric data.
12	https://www.borderviolence.eu/violence-reports/november-17-2020-0000-horgos-serbia/	Hungary	Collective Aid	Reported collection of biometric data.

No.	Link	Perpetrating Country	Reporting Organisation	Notes
13	https://www.borderviolence.eu/violence-reports/burgenland/	Austria, Hungary	Pushback Alarm Austria	Reported collection of biometric data.
14	https://www.borderviolence.eu/violence-reports/july-20-2019-0000-border-crossing-near-roszke-hungary/	Hungary	Escuela con Alma	Reported collection of biometric data.
15	https://borderviolence.eu/testimonies/february-23-2019-1600-close-to-gradets-macedonia/	North Macedonia	[Re:]ports Sarajevo	Reported collection of biometric data.
16	https://borderviolence.eu/testimonies/july-13-2019-0000-close-to-gevgelija-north-macedonia/	North Macedonia	Mobile Info Team	Reported collection of biometric data.
17	https://borderviolence.eu/testimonies/july-22-2019-0930-gevgelija-north-macedonia/	North Macedonia	Mobile Info Team	Reported collection of biometric data.
18	https://borderviolence.eu/testimonies/august-4-2019-0000-gevgelija-train-station-macedonia/	North Macedonia	Mobile Info Team	Reported collection of biometric data.
19	https://borderviolence.eu/testimonies/september-26-2019-0000-nearby-gevgelija-train-station/	North Macedonia	Philoxenia	Reported collection of biometric data.

No.	Link	Perpetrating Country	Reporting Organisation	Notes
20	https://borderviolence.eu/testimonies/january-27-2020-1845-gevgelija-north-macedonia/	North Macedonia	Philoxenia	Reported collection of biometric data.
21	https://borderviolence.eu/testimonies/april-19-2020-0000-lojane/	North Macedonia	No Name Kitchen	Reported collection of biometric data.
22	https://borderviolence.eu/testimonies/april-26-2020-1700-gevgelija-n-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
23	https://borderviolence.eu/testimonies/may-30-2020-0000-gevgelija-n-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
24	https://borderviolence.eu/testimonies/august-14-2020-0200-gevgelija-area-near-the-border-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
25	https://borderviolence.eu/testimonies/august-17-2020-1330-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
26	https://borderviolence.eu/testimonies/february-12-2021-0200-idomeni-greece/	North Macedonia	Mobile Info Team	Reported collection of biometric data.

No.	Link	Perpetrating Country	Reporting Organisation	Notes
27	https://borderviolence.eu/testimonies/april-10-2021-0100-idomeni-greece/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
28	https://borderviolence.eu/testimonies/may-4-2021-0400-idomeni-greece/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
29	https://borderviolence.eu/testimonies/may-7-2021-0014-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
30	https://borderviolence.eu/testimonies/may-8-2021-2330-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
31	https://borderviolence.eu/testimonies/may-10-2021-0000-near-idomeni-greece/	North Macedonia	Mobile Info Team	Reported collection of biometric data.
32	https://borderviolence.eu/testimonies/may-11-2021-2200-gevelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
33	https://borderviolence.eu/testimonies/may-18-2021-1900-near-idomeni-greece/	North Macedonia	Anonymous Partner	Reported collection of biometric data.

No.	Link	Perpetrating Country	Reporting Organisation	Notes
34	https://borderviolence.eu/testimonies/may-28-2021-0000-near-idomeni-greece/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
35	https://borderviolence.eu/testimonies/august-6-2021-0000-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
36	https://borderviolence.eu/testimonies/october-22-2021-2200-gevgelija-north-macedonian/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
37	https://borderviolence.eu/testimonies/november-15-2021-0000-near-guevguelia-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
38	https://borderviolence.eu/testimonies/november-28-2021-1100-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
39	https://borderviolence.eu/testimonies/november-29-2021-0500-close-to-gevgelija/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
40	https://borderviolence.eu/testimonies/december-7-2021-0000-near-gevgelija/	North Macedonia	Mobile Info Team	Reported collection of biometric data.

No.	Link	Perpetrating Country	Reporting Organisation	Notes
41	https://borderviolence.eu/testimonies/december-8-2021-0000-near-gevgelija-north-macedonia/	North Macedonia	Mobile Info Team	Reported collection of biometric data.
42	https://borderviolence.eu/testimonies/december-16-2021-0000-near-gevgelija-north-macedonia/	North Macedonia	Mobile Info Team	Reported collection of biometric data.
43	https://borderviolence.eu/testimonies/january-25-2022-0000-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
44	https://borderviolence.eu/testimonies/march-25-2022-0000-41-128306-22-517528/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
45	https://borderviolence.eu/testimonies/april-19-2022-0000-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
46	https://borderviolence.eu/testimonies/april-23-2022-0000-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
47	https://borderviolence.eu/testimonies/april-23-2022-0000-gevgelija-north-macedonia-2/	North Macedonia	Anonymous Partner	Reported collection of biometric data.

No.	Link	Perpetrating Country	Reporting Organisation	Notes
48	https://borderviolence.eu/testimonies/april-24-2022-0000-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
49	https://borderviolence.eu/testimonies/june-26-2022-0000-gevgelija/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
50	https://borderviolence.eu/testimonies/november-2-2022-0200-close-to-gevgelija/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
51	https://borderviolence.eu/testimonies/november-3-2022-0300-near-valandovo-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
52	https://borderviolence.eu/testimonies/july-5-2023-gevgelija-north-macedonia/	North Macedonia	Anonymous Partner	Reported collection of biometric data.
53	https://borderviolence.eu/testimonies/january-2-2023-close-to-bacsborsod-hungary/	Hungary	Collective Aid	Reported collection of biometric data.
54	https://borderviolence.eu/testimonies/may-9-2023-near-bilisht-albania/	Albania	Anonymous Partner	Reported collection of biometric data.
55	https://borderviolence.eu/testimonies/27925-2/	Bosnia and Herzegovina	Collective Aid	Reported collection of biometric data