

# ACCUSED OF SOLIDARITY

A Report on Incidents of Criminalisation  
Targeting BVMN Member Organisations and  
their Team Members in 2021



**Border Violence Monitoring Network**

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# Glossary & List of Abbreviations

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- ▶ **ASGI - Association for Juridical Studies on Immigration**  
External partner organisation of BVMN located in Italy. As a pool of lawyers, academics, consultants, and civil society representatives, ASGI's expertise relates to various areas of immigration and migrants' rights. For information concerning ASGI, their projects, publications, and other work see: <https://en.asgi.it/>
- ▶ **AYS - Are You Syrious**  
BVMN member organisation located in Croatia, where they provide NFI distribution and a range of integration services for asylum seekers. For information concerning Are You Syrious, their current projects, international media and advocacy work see: <https://areyousyrious.eu/>.
- ▶ **BVMN - Border Violence Monitoring Network**  
The Border Violence Monitoring Network (BVMN) is an independent network of NGOs and associations who monitor human rights violations at the external borders of the EU and advocate to stop the violence exerted against people-on-the-move. For information concerning the BVMN, its projects, and publications see: <https://www.borderviolence.eu/>
- ▶ **Collective Aid**  
BVMN member organisation that is providing humanitarian assistance to people-on-the-move in Bosnia and Herzegovina, Serbia and France. The project in Bosnia and Herzegovina, as well as the two projects in Serbia collect testimonies for BVMN. For information concerning Collective Aid, their current projects and working locations see: <https://www.collectiveaidngo.org/>.
- ▶ **CPS - Centre for Peace Studies**  
BVMN member organisation located in Croatia. For information concerning the Centre for Peace Studies, their current projects and publications see: <https://www.cms.hr/en>.
- ▶ **CSO - Civil Society Organisation**
- ▶ **ECtHR - European Court of Human Rights**
- ▶ **EU - European Union**
- ▶ **FRA - European Union Agency for Fundamental Rights**
- ▶ **Josoor**  
BVMN member organisation operating in Turkey. For information concerning Josoor, their current projects and publications see: <https://www.josoor.net/>.

▶ **Mare Liberum**

BVMN member organisation located in Greece monitoring human rights of people-on-the-move in the Aegean Sea. For information concerning Mare Liberum, their current projects, and advocacy work see: <https://mare-liberum.org/en>

▶ **NGO - Non-governmental organisation**

▶ **NNK - No Name Kitchen**

BVMN member organisation providing humanitarian support to people-on-the-move in border towns along the Balkan Route, as well as in Ceuta, Spain. For information concerning NNK, their current projects, and working locations see: <https://www.nonamekitchen.org/>

▶ **People-on-the-move**

The term “people-on-the-move”, includes all people who, for various reasons, leave their country of origin and flee from circumstances there. It seeks to broaden the definition of “refugee”, taking into account the dramatic impacts of, e.g., climate change, economic and social inequality, political authoritarianism, terrorism and organized crime. Furthermore, the term specifically recognizes people in the process of fleeing who are in transit or stranded. Considering specifically the situation in the Western Balkans where a majority of people-on-the-move which had fled their country of origin, aim to continue their journey to seek safety in the European Union.

▶ **Pushback**

“Pushbacks are the informal cross-border expulsion (without due process) of individuals or groups to another country. This lies in contrast to the term “deportation”, which is conducted in a legal framework [...]. In the past five years, pushbacks have become an important, if unofficial, part of the migration regime of EU countries and elsewhere. The term “pushback” itself is a definition that came to initially describe the unfolding events along the EU borders of Hungary and Croatia with Serbia in 2016, after the closure of the Balkan route. The practice is now a hallmark of border externalisation which reaches from the Greek-Turkish border, all the way to the Slovenian-Italian border.” (BVMN, 2022).<sup>1</sup>

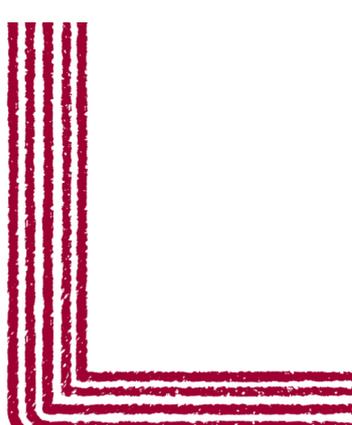
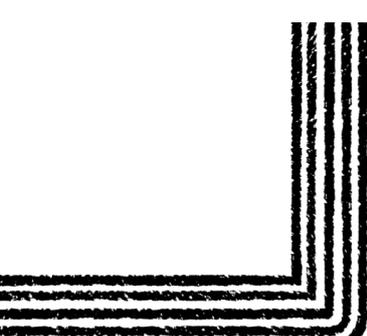
1 - This report is based on the general definition of the term “pushback” as published on the BVMN homepage.



# Executive Summary

This report documents cases of criminalisation attempts experienced by BVMN's member organisations in several countries, mainly in the Western Balkans and Turkey in 2021. In order to contextualise these events, the report briefly introduces a definition of criminalisation, the political and legal environment, as well as relevant actors, and forms of criminalisation. In addition, it discusses the consequences of criminalisation for BVMN's member organisations and incidents of criminalisation they were subject to, listed after the countries they are located in.

The report observes a trend of deterioration in the situations of CSOs and their team members due to such incidents. Different forms of criminalisation, namely formal and informal criminalisation, scrutiny, obstacles related to visa procurement, defamation in the media and smear campaigns, as well as threats, harassment, and violence had huge negative consequences for the contributing member and partner organisations of the Network.



# Introduction

Over the last decade, the increasing securitisation and militarisation of the EU's borders alongside a shifting framework towards managing migration through the lens of 'bogus' asylum seekers and irregular movement has led to a corresponding increase of criminalisation of people-on-the-move. This is reflected in the secondary criminalisation of CSOs and the humanitarian support they provide to people-on-the-move (Buyse, 2018, BVMN, 2020). Among other things, this resulted in a decreased safe civic space for CSOs to operate in (BVMN, 2020). Analysing a collection of interviews and testimonies with member organisations, BVMN concluded in their 2020 report on the criminalisation of CSOs in the Balkans that the decreased safe civic space for CSOs "has created precarious working conditions" and "reduced vital support and aid for people-on-the-move" (BVMN, 2020, p. 19)<sup>2</sup>. This report builds upon the previous report as the topic remains of high relevance, due to BVMN's member organisations' continuing experiences of criminalisation. This refers not only to the organisations and their humanitarian support activities, but also to their employees and volunteers. At the same time, this report is based on BVMN's submission to the annual FRA consultation on civic space which fed into their annual report on challenges CSOs are facing within the EU and at its external borders when defending access to fundamental rights.<sup>3</sup> Thus, this report intends to shed light on the increasing criminalisation and challenging environment CSOs supporting people-on-the-move and monitoring human rights violations are confronted with.

BVMN is an independent network of CSOs and associations who monitor human rights violations at the EU's external borders and advocate to stop violence exerted against people-on-the-move. This work includes the collection of testimonies of pushbacks and violence against people-on-the-move, as well as publishing and analysing current developments in monthly and special reports. These serve as a basis for the Network's advocacy efforts at national, EU, and UN levels, where BVMN engages on different political and legal platforms in order to denounce violations of human rights and promote a better management of migration flows in full respect of human rights. Thus, BVMN's work consists of a combination of research and data collection (mainly on a national level), as well as advocacy work (both domestically, as well as at EU and international levels).

2 - Full report to be found here: Border Violence Monitoring Network (BVMN). (2020). Shrinking spaces: Report on criminalisation of solidarity in the Western Balkans. <https://www.borderviolence.eu/wp-content/uploads/Report-on-Criminalisation-of-Solidarity.pdf>

3 - More information on FRA (European Union Agency for Fundamental Rights) and their annual reports on civic space in the EU to be found here: <https://fra.europa.eu/en/themes/civil-society>

# CONTEXTUALISATION

## DEFINITION

The concept of criminalisation of CSOs encompasses both a social and political phenomenon where either a certain activity or social group is targeted by the state, even though non-state actors might also be involved, intending to either end the activity or gain control over the group (Schack & Witcher, 2021). This is achieved through judicial, bureaucratic, discursive, and other methods that are largely initiated by the state. These might include harassment by the authorities, bureaucratic barriers, administrative penalties, public scapegoating, and (attempted) prosecutions. The criminalisation of CSOs can also be linked to the “shrinking space phenomenon” that includes the “criminalisation, stigmatisation and delegitimisation of Human Rights Defenders [...] as well as the criminalisation of refugees’ solidarity” (Twomey, 2017, p. 4). The criminalisation of CSOs can be seen as both “a new approach to irregular immigration and migration control tactics” (López-Sala & Barbero, 2019, p. 2) and as the result of intensified ‘cimmigration’ (the criminalisation of irregular migration) policies (Stumpf, 2006). In this context, CSOs are punished for their involvement with and defence of people-on-the-move; a group that is increasingly labelled as ‘criminals’ (Schack & Witcher, 2021).

## POLITICAL CONTEXT

Against the backdrop of migration becoming more and more globalised in combination with the backdrop on the so called “war on terror”, the EU and its Member States started increasing the securitisation of their borders (Franko, 2020; Cochrane, 2015).

The securitisation of migration has been developing across the last three decades but was accelerated by the terrorist attacks of September 11, 2001 (9/11) in the US, and the Madrid (2004) and London (2005) bombings. These global

events were rhetorically linked to incoming migratory flows, and thus marked the initiation of a state of exception in handling the issue of migration. Questions were raised regarding “emergency powers, exceptional events, situations and responses, and whether constitutional checks and balances, international obligations and fundamental freedoms and rights need to be reconsidered according to the necessities of security” (Neal, 2009, p. 335). The aftermath of the 9/11 attacks and those that followed saw the European response to migration management merge migration and security concerns within policy frameworks, shifting focus to the management of irregular POM, smugglers, and ‘bogus’ asylum-seekers (Bigo, 2002).

These developments resulted in so-called “fortress continents” where Europe and other Western continents continued to limit the access to their territories (Franko, 2020; Klein, 2003).<sup>4</sup> This started with more implicit mechanisms, like internal identification mechanisms, deterrence mechanisms to reduce the attractiveness of Europe as a place of destination, and sanctions for those who aided people-on-the-move to enter Europe irregularly (e.g. carrier sanctions) (Lutz & Karstens, 2021). In present times, the process of external border securitisation has been “militarised” through different legal measures and policies. For example, the use of advanced identification technology, the construction and continuous reinforcement of physical walls at the external borders in Greece, Hungary, Bulgaria, and Poland, and the implementation of laws and policies that allow for detention and deportation of people-on-the-move seeking asylum or that even legalise the practice of pushbacks (Front Line Defenders, 2022a).

Throughout these developments, local and international CSOs are still trying to support people-on-the-move by providing basic necessities (e.g. food, clothes, medical care) and attempting to alleviate the consequences of these deterrence policies. Consequently, this

4 - For more information on “Fortress Europe” also see: Rigby, J., & Crisp, J. (n.d.). Fortress Europe: How 1,800km of walls and fences are keeping desperate migrants out. The Telegraph. <https://www.telegraph.co.uk/global-health/fortress-europe-borders-wall-fence-controls-eu-countries-migrants-crisis/>



caused CSOs to also become part of the perceived threat to national and European security because of their affiliation and involvement with people-on-the-move. On a national level, migration became more prominent within the political field where state officials strived to ‘crack down’ on ‘illegal migration’ and with that CSOs and their team members associated with ‘illegal migration’ (Schack & Witcher, 2021) as a secondary target. To illustrate, Front Line Defenders reported how 8 of 15 members of the BVMN “have been recently prosecuted in Greece, Croatia and Slovenia, charged with facilitating illegal migration” (2022a, p. 12).

## RELATION TO DECREASING SPACES OF CIVIL SOCIETY

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The space given to civil society is intrinsically linked with the criminalisation of CSOs and its members, as both parameters have an impact upon each other. Civil society space, the “room for action and manoeuvre for citizens and CSOs”, has been put under more and more pressure (Buyse, 2018, p. 969). The pressure differs per country and per organisation, but emerges overall on the level of formal laws and policies that contain restrictions on registration, and limit a CSO’s functioning and activities, as well as its access to different resources. The introduction of a more restrictive legal environment can furthermore create a legal basis for formal criminalisation that limits CSOs’ scope of action and affects CSOs’ ability to speak up against their criminalisation. In addition, informal forms of repression and criminalisation like scrutiny, harassment and threats from governmental and non-governmental actors, result in a decreased scope of action for CSOs (Buyse, 2018). For instance, it constitutes a fertile ground for smear campaigns and negative (media) perception, as well as “stigmatisation [and] de-legitimation” of CSOs within a society (BVMN, 2020, p. 19). The resulting “discourse and labelling” of these actions have a direct impact on the civic space of

CSOs.<sup>5</sup>

Looking at the countries BVMN’s member organisations are located in, the national legal frameworks for CSOs has to be taken into account, which is an increasingly “shrinking space” through the implementation of legislation further limiting CSOs’ scope of action in 2021. Among them, “domestic laws regulating the activities of non-profits more broadly, (for example by imposing onerous registration [...])” (Twomey, 2017, p.3). With the registration of an organisation come certain benefits like having legal personality, and accountability in a field where people in highly vulnerable situations form the target group, however either the registration process might be intentionally made difficult in order to restrict CSOs, or registration might bring more severe limitations to an organisation’s scope of action (Buyse, 2018).

This is what happened in Greece when in 2020, the NGO Registry Law was introduced. This law would increasingly limit an organisation’s scope of action, in particular in the field of monitoring fundamental rights violations in border areas and by governmental actors (BVMN, 2021a). In addition to the NGO Registry Law, Greece has introduced another law that criminalises the spread of ‘fake news’ (Human Rights Watch, 2021). There is a “serious risk” that the law might be utilised to target journalists, CSOs, or anyone criticising or exposing the Greek government or its policies (Human Rights Watch, 2021, second paragraph).

Furthermore, the functioning and activities of CSOs are often regulated through restrictions on certain activities, such as having to operate under the command of local authorities. This is often related to activities of CSOs defending human rights in solidarity with people-on-the-move (Twomey, 2017), and was justified with ‘enforcing COVID-19 restrictions’. Consequently, this led to limited access of BVMN’s member organisations towards and the ability to work with people-on-the-move, hence restricting the organisation’s ability to

5 - For decreasing spaces for CSOs working on the topics of Human Rights and Migration in the European Union, also see: Martone, F., Twomey, H., & Burke, D. (Eds.) (2018). The shrinking space for solidarity with migrants and refugees: how the European Union and Member States target and criminalize defenders of the rights of people on the move. Transnational Institute. [https://www.tni.org/files/publication-downloads/web\\_theshrinkingspace.pdf](https://www.tni.org/files/publication-downloads/web_theshrinkingspace.pdf)



perform their core activities. In addition, another limitation of the member organisations' scope of action is observed through more restricting visa policies for volunteers and employees. This is problematic, insofar as many of BVMN's member organisations highly rely on the support of international volunteers and employees.

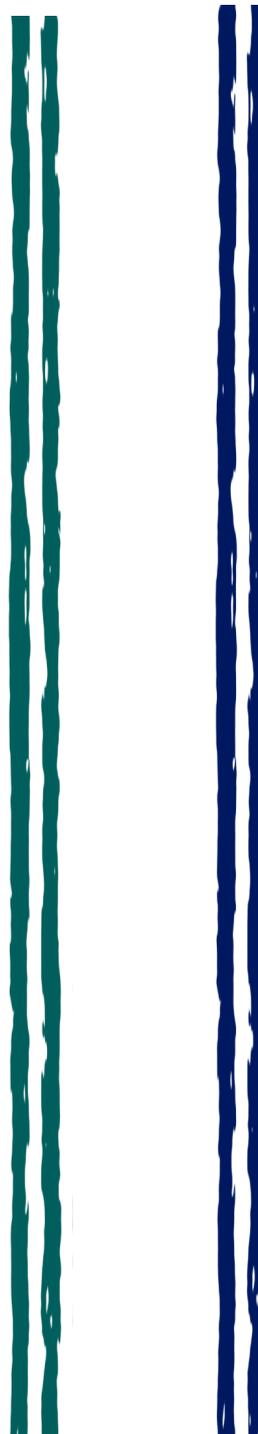
The pressure on CSOs and hence the tendency of a decreasing space for CSOs, are furthermore increased by a lack of protection from criminalisation attempts. Here, a state's protection of CSOs is of crucial relevance, as the absence of protection from harassment by private actors also increases the pressure on a CSO (Buyse, 2018). BVMN member organisations repeatedly reported in 2021 on a lack of access to jurisprudence, and challenges in reporting to authorities in the countries they are operating in. In some cases of threats and attacks against member organisations, the police or other national authorities are the perpetrators themselves, which makes it challenging to report incidents on a local or national level to authorities and receive protection. Furthermore, member organisations often face additional country specific difficulties when trying to seek protection from criminalisation. For example, in Serbia, BVMN's member organisations are confronted with systemic corruption as well as a lack of local networks that make it difficult to expect an appropriate response from authorities.

## ACTORS

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In 2021, BVMN member organisations experienced criminalisation by various actors; governmental, as well as non-governmental. Whereas criminalisation at first sight might solely stem from governmental actors on a national or local level (e.g. government officials, national authorities, or law enforcement bodies) (Schack & Witcher, 2021), it is also important to consider non-governmental actors, for example right-wing groups, or privately owned media companies (Buyse, 2018). As hostility against people-on-the-

move increases among the societies of several European countries, so does hostility towards the CSOs supporting them. Hence, perpetrators of threats, harassment and violence might also be individual members of the local community (BVMN, 2020). Non-governmental actors are of particular relevance, as threats and harassment by them gain particular strength in case of a lack of protection from governmental actors. Hence, the toleration or active protection of CSOs by the government of a state has high concordance with the pressure caused by non-governmental actors (Buyse, 2018). The interplay of these counterparts might cause further challenges and repression of the work of CSOs.



# FORMS OF CRIMINALISATION

## CRIMINALISATION OF THE ORGANISATION VS. OF THE VOLUNTEERS AND EMPLOYEES

Targets of criminalisation can be distinguished between criminalisation of the organisation itself and criminalisation of its volunteers and employees, which results in both the organisation and the members experiencing obstacles to their overall ability to carry out humanitarian support activities (BVMN, 2020). Front Line Defenders (2022a) reported how members of CSOs have been harassed, arrested, and even killed because of their work in e.g. Greece and Croatia. The individuals seem to be facing these disturbing actions as part of the trend of violence and harassment directed at CSOs in general (OHCHR, 2018). Many of the volunteers are part of the community of people-on-the-move which makes the described violent circumstances even more dangerous due to their increased vulnerability (Front Line Defenders, 2022a).

To illustrate, three volunteers with member organisation Collective Aid in Bosnia and Herzegovina were asked in January 2021 to leave the country within 14 days and threatened to be deported and issued with a ban for the country for at least one year in case of non-compliance. Consequently, the organisation encountered difficulties in conducting its humanitarian support activities due to the legal challenges related to travel restrictions and visa bans.

## FORMAL CRIMINALISATION - HARASSMENT THROUGH LEGAL MEANS

The criminalisation of CSOs and their members through judicial accusations, court trials, and administrative and criminal charges can be referred to as “formal criminalisation” (BVMN, 2020, p. 4). Instances of formal criminalisation are often highly publicised or receive a lot of attention from the public and media, particularly when white EU citizens are the defendants. Even though often proven incorrect, media coverage of such cases might have a discouraging and deterring effect on other organisations working in the field as well as potential new volunteers and employees. The accusations are often made under the guise of ‘facilitating illegal border crossings’ or ‘facilitating illegal or undocumented stay’, additionally contextualised with accusations of ‘migrant smuggling’ (BVMN, 2020).

Member States’ legislation that criminalises humanitarian support activities is oftentimes adopted under the EU Facilitators’ Package<sup>6</sup> which is focused on combating the facilitation of unauthorised or irregular entry, stay, and transit. It is particularly problematic that the Package does not include an obligation for the protection of humanitarian actors; it is left to the Member States’ discretion to include such a thing in their own national legislation (BVMN, 2020; Vallies, 2021). By not excluding humanitarian actors in its legislation, the Facilitators’ Package goes against the UN Protocol Against the Smuggling of Migrants by Land, Sea

6 - The EU Facilitators’ Package comprises the ‘Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence, OJ L 328, 5 December 2002’, and the ‘Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence, 2002/946/JHA, OJ L 328, 5 December 2002’.



and Air.<sup>7</sup> The Protocol only allows for criminalisation of the facilitation of unauthorised or irregular entry, stay, and transit, if there is any indication of financial or material benefit.<sup>8</sup> However, the Facilitators' Package disregards this condition for criminalisation and does not require Member States to include financial gain as a necessary part of the criminal offence of smuggling people-on-the-move (Vallies, 2021). This creates a situation where Member States "criminalise the activities of a person aiding irregular migrants, including refugees and asylum seekers, for humanitarian reasons [...] without obtaining, or seeking to gain, any material advantage" while there is a concerning "absence of other legal exceptions" (European Committee on Crime Problems, 2016, p. 6).

The use of Strategic Lawsuits Against Public Participation (SLAPP) is an example of formal criminalisation and a tool of repression that is increasingly being used against CSOs. These lawsuits have the sole intention of terminating "acts of public participation, including public interest journalism, peaceful protest or boycotts, advocacy, whistleblowing, or simply speaking out against the abuse of power" (Ghio & Nasreddin, 2022, p. 34). The reason to start a lawsuit is generally to create a financial burden for the defendant, and to cause their emotional and mental exhaustion with the long process of preparing their defence and having to remember details from an event that happened a long time ago (Ghio & Nasreddin, 2022). In addition, these lawsuits often target CSOs in order to deter others from either creating a CSO or joining one, thus limiting one's right to freedom of assembly and association.

For example, in 2018, the Croatian Ministry of Interior started a

misdemeanour process against Dragan Umičević, a volunteer of Are You Syrious and BVMN member involved in monitoring access to asylum (Amnesty International, 2020). In the case that is widely recognised as an example of pressures against human rights defenders, the Ministry asked for an unprecedented fine of 43,000 EUR, imprisonment of a volunteer, and the prohibition of the work of the organisation. If it were confirmed by the Court, the financial burden of the sentence would be enough to shut down the organisation.

Greece's treatment of people-on-the-move has sparked harsh criticisms to which the Greek government has responded to by silencing CSOs and other groups that report on this issue in the form of criminal investigations, and with an increasingly oppressive and restricted legal environment (Cossé, 2021). The aforementioned NGO Registry Law in Greece is one example of this. The ongoing implementation of the law poses challenges that might result in shut-downs, in particular to smaller CSOs on grassroot level, which BVMN member organisations can be regarded as. These smaller grassroots organisations are then left in a legal limbo, living with the possibility of being closed down at any moment due to not having the correct documentation. This makes it more difficult, or in practice impossible, to register formally. This violates the right to freedom of association (ECRE, 2021), and therefore adds to an increasingly hostile environment for CSOs supporting the fundamental rights of people-on-the-move and to the already decreasing civil society space (Masood, 2021). Despite being introduced in 2020, the change of legislation has had an ongoing impact on CSOs in Greece until today, as e.g. one of BVMN's

7 - Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organized Crime. [https://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM\\_Protocol\\_English.pdf](https://www.unodc.org/documents/middleeastandnorthafrica/smuggling-migrants/SoM_Protocol_English.pdf)

8 - Article 6(1) of the Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organized Crime.



anonymous partner in mainland Greece did not have success in formally registering with the new registry portal or getting the mandatory Greek tax number.

The other aforementioned Greek law that criminalises the spread of ‘fake news’ is another example of the increasingly restricted legal environment in Greece. A provision in ‘Amendments to the Penal Code, the Code of Criminal Procedure and other urgent provisions’ (2021) was introduced in November 2021 and criminalises any information that is “capable of causing concern or fear to the public or undermining public confidence in the national economy, the country’s defence capacity or public health”. The risk of the provision being used against e.g. journalists, CSOs, or anyone who criticises the Greek government and its policies, and exposes human rights violations at the hands of Greek authorities is increased by the fact that the provision does not provide a definition of ‘fake news’, nor on how something being ‘fake news’ or causing potential harm should be determined. Additionally, the law does not contain any protection to freedom of press and thus threatens the right to free expression (Human Rights Watch, 2021).<sup>9</sup>

## **INFORMAL CRIMINALISATION**

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“Informal criminalisation” (BVMN, 2020, p. 14) of people-on-the-move as well as CSOs is a form of criminalisation taking many different forms and having severe impacts. It is the most common form of criminalisation experienced. Informal criminalisation expresses itself through acts of repression, threats, surveillance, intimidation, interrogation, and the disturbance or destruction of services that provide humanitarian assistance to

people-on-the-move, amongst others. The motive for local, national, and European authorities to employ these tactics of informal criminalisation towards CSOs as a secondary target is the narrative of them being a pull-factor or facilitator of irregular migration. This is based on the argument that providing humanitarian assistance is the reason for people-on-the-move to enter the EU, hence a reduction of these services will lead to a decrease of irregular migration (BVMN, 2020).

The “arbitrariness” of informal criminalisation causes the civil society space to be more insecure and unpredictable in terms of safety, and additionally “threatens to erode rule of law” (BVMN, 2020, p. 15). For example, CSOs are often forced to work at less visible or central locations that are obstructed from the public eye which makes it harder for people-on-the-move to access their services. Furthermore, acts of high scrutiny, arbitrary arrests, and searches are both blatant displays of abuses of power and acts of intimidation to curb humanitarian support activities.

## **FORMS OF SCRUTINY**

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One form of informal criminalisation is scrutiny by governmental actors, like police forces. Recently, an increasing number of CSOs working with people-on-the-move report being under different forms of scrutiny. This is not only due to the fact that people-on-the-move and the locations they gather at are under increasing surveillance which also involves the actors providing support to them, but also organisations and their members find themselves under increasing scrutiny (BVMN, 2020). Forms of scrutiny might involve, e.g. harassment in the form of excessive administrative controls or audits and

9 - Greece is obligated to respect the right to free expression under Article 11 of the EU Charter of Fundamental Rights and Article 10 of the European Convention on Human Rights, both of which Greece is a party of.



surveillance by law enforcement, including of an organisation's online activities.

Already in 2020, BVMN observed an increase in identity checks of their volunteers and employees and searches of buildings associated with their member organisations by police forces, as a form of intimidation (BVMN, 2020). Oftentimes, arbitrary and informal acts of policing, like arbitrary and unlawful detention of CSOs' volunteers and employees, are a further contributor to an increasing environment of scrutiny. In 2020, BVMN reported on arrests and detention of volunteers in local police stations without due charges being brought against them. Also, volunteers were taken to the police station in order to get their documents checked without any legal basis (BVMN, 2020). Operations like this are often perceived as forms of intimidation, aiming to demonstrate presence and power by police forces and national authorities (Archer et al., 2019). This aligns with a greater picture of intimidation, scrutiny and criminalisation of individuals monitoring and reporting on human rights violations against people-on-the-move, including not only CSOs, but also journalists.<sup>10</sup>

## **OBSTACLES RELATED TO VISA PROCUREMENT**

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Several organisations working to support people-on-the-move along the so-called 'Balkan Route' as well as at the EU's external borders highly depend on international volunteers and employees. This creates a potential target point for criminalisation, as the denial or withdrawal of the individuals' visas makes it more challenging for the CSOs to keep their services running.

Already in 2020, BVMN observed an increase in bureaucratic hurdles for their international volunteers when applying for visas. This not only poses a challenge for volunteers and employees to travel to the CSOs' location of operation, but for many international volunteers and employees in the field it also creates challenges to maintain their legal status within the country. The imposition of increasing challenges to uphold one's visa status often results in volunteers and employees having to leave the country as violations of residence restrictions oftentimes incorporate the obligation of paying high fines (BVMN, 2020). Particularly, for non-EU nationals, among them often former people-on-the-move, this further constitutes the risk of deportation to their country of origin. This is particularly concerning, as such acts in several cases disregard potential risks of persecution and potential violation of non-refoulement. In the past, BVMN member organisations experienced incidents in which former people-on-the-move had their residency statuses withdrawn and were ordered to leave the state's territory as otherwise threatened with deportation.<sup>11</sup>

## **DEFAMATION IN THE MEDIA AND SMEAR CAMPAIGNS**

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The earlier described development of securitisation and concomitant spread of a narrative where non-EU citizens are increasingly demonised and labelled as a 'security threat' to the EU is seen by Vallies (2021, p. 8) as the "starting point" of the criminalisation of CSOs. This narrative is widely used by European authorities, politicians, and media outlets and often includes "warlike vocabulary and imagery" that, for example, talks about

10 - For the deteriorating situation of journalists reporting among others on the topics of migration and human rights of people-on-the-move, see for example reports on their situation in Greece: Baboulias, 2022 and Human Rights Watch, 2021.

11 - For more detailed information see incidents detailed concerning Bosnia and Herzegovina in chapter 7a. and Turkey chapter 7e.



a 'migration crisis' or an 'invasion of migrants' (Vallies, 2021, p. 8). CSOs and its members active in countries like Spain, France, and Greece have reported that they had been on the receiving end of xenophobic and racist comments, and even threats which were made in order to intimidate them from carrying out their humanitarian support activities (Vallies, 2021).

Some CSOs in Hungary, Turkey, Greece, and Cyprus have experienced such a high level of harassment, defamation, and negative public response that they have completely ceased their activities (Vallies, 2021). Front Line Defenders (2022a) confirms how acts of defamation, fear mongering, and smear campaigns around humanitarian support activities of CSOs are a continued threat to volunteers. They are either depicted as 'smugglers' who have directly contributed to people-on-the-move arriving in a state's territory, or as a 'pull-factor' for people who have travelled to a state's territory in order to receive their aid. Consequently, BVMN (2020) reported how these acts incite hate, decrease public support, and thus might have a negative effect on receiving donations or access to funding. Additionally, actions of defamation and smear campaigns might be used to legitimise verbal or even physical attacks on CSOs and their team members, further decreasing the safe civil society space they have created for themselves. Oftentimes, formal criminalisation is accompanied by targeted smear campaigns such as in the case of BVMN members Josoor and Mare Liberum who were, after the Greek authorities leaked details of a case accusing some of their team members of forming a criminal organisation, espionage, facilitation of illegal entry, and violation of state secrets (Ekathimerini, 2020), targeted by a smear campaign organised by the Greek media.

## THREATS, HARASSMENT AND VIOLENCE

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Threats, harassment, and any other attacks might come in verbal or physical form not only against the CSOs themselves and its team members, but also against their premises (e.g. office buildings) or other properties (e.g. vehicles). In addition, family members of the volunteers and employees might also become a target (Buyse, 2018). These acts have the intention to limit a CSO's scope of action and operation, and often come from different actors, private (e.g. businesses, media organisations) as well as state.

Verbal violence can take several forms, among them "yelling, insults, aggressive questioning, sexual harassment, and threats with imprisonment or expulsion from the country" and might not only be directed against team members themselves but also against individuals who are "indirect supporters", like, e.g. members of the local community renting apartments to them (BVMN, 2020). In addition, threats, harassment, and verbal violence might be expressed online in the form of hate speech, violent content, and threatening messages posted on social media, or sent directly to the organisation's own website or social media profiles (Vallies, 2021). Furthermore, if CSOs have an active online presence, they might experience their websites being blocked or censored, or their social media accounts being hacked (Buyse, 2018).

Compared to verbal violence, physical violence against volunteers and employees is taking place less frequently. Nevertheless, the physical destruction of a CSO's property or

premises causes direct obstruction of their humanitarian support actions. The resulting challenges in service provision also reduce a CSO's visibility and therefore its ability to reach people-on-the-move (BVMN, 2020).

Above-mentioned actions are often justified with common narratives about people-on-the-move (BVMN, 2020), which are rooted in negative

portrayals in media discourses and smear campaigns. Negative images, and un-contextualised and misleading information are often shared by "governments, far-right groups, xenophobic and racist groups, as well as politicians and individuals" (Vallies, 2021, p. 29).

# CONSEQUENCES OF CRIMINALISATION

## REDUCTION OR DISCONTINUATION OF ACTIVITIES

In several cases, the increased criminalisation of BVMN member organisations led to a reduction or discontinuation of their humanitarian support activities in 2021, which has had a serious impact on their ability to monitor human rights violations. In particular informal criminalisation in its different forms "threatens to erode rule of law and make the space for solidarity with people-on-the-move and humanitarian work insecure and unpredictable" (BVMN, 2020). The challenges originating from informal criminalisation are particularly problematic for local and international organisations' volunteers and employees. Local volunteers and employees might be discouraged from taking action in fear of it having a negative impact on their families and day-to-day lives. Meanwhile, international volunteers and employees could face the consequence of not being granted access to the country of operation, being ordered to leave the

country, or receiving high fines when they do not comply with these orders (BVMN, 2020).

Due to attacks and harassment, and in order to ensure safety for volunteers, employees and people-on-the-move accessing vital services, some sites of service were abandoned in 2021. In Serbia, partner organisation NNK abandoned certain distribution sites due to increasing pressure from police and the amount of online and offline harassment by members of the local community (examples to be seen below; BVMN, 2021c). The same situation was the case for NNK in Bosnia and Herzegovina. Due to police checks at their distribution site and the confiscation of volunteers' passports, they were forced to move their distribution sites to secluded locations or conduct them in the dark. As a result, a far smaller number of people-on-the-move were able to reach their distribution sites and therefore access vital humanitarian assistance. For instance, in April 2021, volunteers' documents were checked and they were ordered to report to the Bihac police station the next day; a direct



consequence of this was the stop of distributions in Velika Kladusa for one week.

In addition, it has to be mentioned that one of BVMN's anonymous member organisations in Greece is currently unable to conduct advocacy work under their own name. Their reasoning for this is the fear that repression of their direct aid services might follow due to their advocacy activities. In Greece, this fear is founded on the fact that repressive actions by local police forces have increasingly been taking place over the past years. In June 2020, twenty police officers arrived at the distribution site of one of BVMN's Greek member organisations, expressed violence towards a person-on-the-move and were verbally aggressive towards one of the volunteers present at the site. They arrested a number of people-on-the-move, while telling volunteers that they would issue relevant documents. After reaching out to volunteers the following days, it came to light that the majority of the people arrested were pushed back to Turkey the same night (BVMN, 2020).

Furthermore, following two criminalisation cases against partner organisation Josoor in Greece, despite the organisation being based in Turkey, its members are no longer able to travel to Greece to meet other partner organisations or participate in events. Moreover, the looming trial absorbs a lot of resources for preparation which would rather be needed for the actual humanitarian support work of the organisation.

## REDUCED ACCESS TO FUNDING

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In several cases a result of criminalisation is limited access to funding for CSOs. Even for CSOs basing their work mainly on volunteers, as is the case for several BVMN members, this is a crucial aspect limiting their work, as volunteer-based CSOs also need a certain amount of funding to keep their operations running (Buyse, 2018). For national CSOs, governmental requirements and obligations in place might not allow for international funding, which is in particular challenging in countries where less resources are available (Buyse, 2018). Whereas for international CSOs there might be restricting regulations in place, limiting access to national funding (Vallies, 2021). The access to funding is furthermore limited by criminalisation and interrelated limitations to freedom of association, interfering with a CSOs' operation which is the precondition to be able to access potential funding (OMCT & FIDH, 2013).<sup>12</sup>

Limited access to funding as a result of criminalisation was also an obstacle BVMN's member organisations were facing in 2021. In 2020, the Greek government accused 33 members of NGOs of illegally smuggling migrants into Greece in 2020 (Ekathimerini, 2020), including volunteers of BVMN member organisations (Christides et al., 2020). Among them was a volunteer of BVMN's member organisation Josoor in Turkey, and several volunteers and staff of BVMN member organisation Mare Liberum reporting, among other things, on human rights violations conducted by members of Greece authorities. Following this criminalisation attempt, some of Josoor's funds (private funding) were withdrawn in summer

12 - On the right of CSOs defending Human Rights to funding and restricted access due to criminalisation see also: World Organisation Against Torture (OMCT), & International Federation for Human Rights (FIDH). (2013). Violations of the right of NGOs to funding: from harassment to criminalisation: Annual Report 2013. [https://www.omct.org/files/2013/02/22162/obs\\_annual\\_report\\_2013\\_uk\\_web.pdf](https://www.omct.org/files/2013/02/22162/obs_annual_report_2013_uk_web.pdf)



2021, which has had an ongoing influence on the organisation's work until today.

## **LIMITED ACCESS TO POLITICAL DECISION-MAKING PROCESSES AND PARTICIPATION**

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Criminalisation limits CSOs' access to political decision-making processes and participation and therefore "reduce[s] the capacity of civil society to effectively and independently promote the fundamental rights of refugees and other migrants, and to uphold the EU's founding values, such as rule of law, democracy and fundamental rights" (Vosyliūtė & Conte, 2018, p. 5).

This applies to BVMN and its members, as they have repeatedly been denied formal participation in sessions organised by national institutions and their subcontractors, due to political pressure. For instance, in 2021, BVMN was approached to present evidence to the Frontex Scrutiny Working Group in the European Parliament, at the request of multiple members of the Group. On this occasion, BVMN offered to introduce a person-on-the-move who had been pushed back and who was willing to provide information about the practice to the MEPs. BVMN's request for him to intervene formally and in the meeting of the Working Group was declined. Testimonials of other members of civil society were also limited due to political disagreement in the Group. In response to this, several members of the Frontex Scrutiny Working Group have organised an alternative live event where BVMN representatives and victims were invited to present the evidence that had not been heard in the formal sessions.

In several cases, the increased criminalisation of BVMN member organisations led to a reduction or discontinuation of their humanitarian support activities in 2021, which has had a serious impact on their ability to monitor human rights violations. In particular informal criminalisation in its different forms "threatens to erode rule of law and make the space for solidarity with people-on-the-move and humanitarian work insecure and unpredictable" (BVMN, 2020). The challenges originating from informal criminalisation are particularly problematic for local and international organisations' volunteers and employees. Local volunteers and employees might be discouraged from taking action in fear of it having a negative impact on their families and day-to-day lives. Meanwhile, international volunteers and employees could face the consequence of not being granted access to the country of operation, being ordered to leave the country, or receiving high fines when they do not comply with these orders (BVMN, 2020).

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# INCIDENTS OF CRIMINALISATION

## LISTED AFTER COUNTRIES

### **BOSNIA & HERZEGOVINA**

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#### **Increasing challenges related to visa procurement**

For this report, BVMN's member organisation Collective Aid contributed by providing insight on incidents of criminalisation in Bosnia and Herzegovina.

In January 2021, three volunteers of the member organisation were asked to leave Bosnia and Herzegovina. They were asked to leave the country within 14 days (no official expulsion order was given), additionally, they were threatened with deportation and entry bans to Bosnia and Herzegovina for at least one year, in case of missing adherence to this order.

Furthermore, the organisation encountered difficulties in conducting its work due to administrative challenges. In January 2021, the local police argued that the CSO's volunteers were not allowed to conduct their work as it was considered "disturbing the public peace" and that, with possessing white cards only (i.e. temporary registration for Bosnia and Herzegovina), they were considered tourists and were barred from such activities. Collective Aid was asked to go through extra registration steps in order to get a working permission for their volunteers, even though at that time this residence title was legally non-existent for individuals on a short-term stay. This is particularly problematic as the volunteers' work on the ground constitutes the basis of the organisation's work. Also in January

2021, while undertaking their daily tasks, three volunteers were taken to the Service of Foreigners Affairs, questioned for several hours and had their passports withheld for a weekend.

Overall, concerning criminalisation in Bosnia and Herzegovina, the majority of incidents reported by the respective members are related to visa procurement, connected with administrative, partly insuperable obstacles. By hindering the organisation's main workforce, namely the volunteers, the foundation of their work is impeded.

### **CROATIA**

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#### **Criminalisation of CSOs' team members**

Concerning criminalisation in Croatia, BVMN's member organisation AYS and CPS contributed with reports on incidents targeting them and their team members in 2021.

Since 2017, CPS and AYS have supported the family of Madina Hussiny, a 6-year old Afghan refugee, who died after she and her family were pushed back from Croatia without being given access to the asylum system. After crossing the border to Croatia in 2017, the family was apprehended by the Croatian police, denied access to asylum and forced to walk back to Serbian territory on train tracks at nighttime. Following the pushback, Madina Hussiny, was struck by a train and died. CPS in collaboration with the lawyer Sanja Bezbradica



Jelavić led the strategic litigation on the girl's death at the ECtHR (*M.H. and Others v. Croatia*), with support of the AYS activists (Tondo, 2021). Several incidents of criminalisation and harassment of CPS' and AYS' volunteers have been seen in relation to and as a consequence of this support. For example, in the time of a press conference where the CPS and AYS staff, and lawyers were supposed to address the misconduct of Croatian police, they were all called to attend a police interview right at the time of a press conference, with the purpose of intimidating actors who are vocal about the misconduct of Croatian police. In November 2021, in the case of *M.H. and Others v. Croatia*, the ECtHR found that Croatia violated five human rights of the family guaranteed under the Convention, including Madina's right to life and the inhuman treatment of her brothers and sisters. The verdict explicitly named BVMN members CPS and AYS as CSOs which were documenting violations, and highlighted concerns about the intimidation perceived by NGOs and activists providing aid to people-on-the-move, in light of the findings of the Special Representative of the Secretary General on Migration and Refugees. The Court further found that the lawyer of the family Hussiny was subject to state pressure aimed at discouraging pursuit of the case of little Madina.

The efforts to intimidate and create pressure on the activists and human rights defenders include, e.g. ongoing harassment of the former AYS employee Tajana Tadić. Ms. Tadić has been the target of criminalisation attempts by the Ministry of Interior since 2018, when she vocally and publicly demanded justice for little Madina and put many efforts into supporting the Hussiny family. For that, she was questioned by the police, police officers were sent to her parent's

address at night, and officers who were regularly entering the premises of AYS without identification were asking her inappropriate questions about her ethnicity in front of her work colleagues and beneficiaries.

In January 2021, Omer Essa Mahdi, the partner of Tajana Tadić, had his refugee status in Croatia revoked after he refused to become an informant of the Security and Intelligence Agency (Croatian: Sigurnosno-obavještajna agencija or SOA). This was based "on allegations that he represents a 'threat to national security'". During the trial, neither Mr. Mahdi, nor his attorney, had access to the complete files. Additionally, international expert opinions and official documents that substantiated his claims, as well as witnesses suggested by his defence were not considered to be reviewed or heard. Beforehand, Mr. Mahdi experienced multiple forms of harassment by the authorities, among them the threat of deportation to Iraq, when he refused to share information on other refugees informally, in the capacity of an informant (Front Line Defenders, 2022b).

The Administrative Court of Croatia dismissed the appeal against the revocation of refugee status, ignoring the entire body of evidence provided by Mr. Mahdi and his lawyer to support his claims. Furthermore, Mr Mahdi was instructed to voluntarily leave the European Economic Area within 30 days of the day on which the decision becomes enforceable or be subject to forced removal. He filed a request to have the 30-day period extended, as he has further appealed the case at the High Administrative Court and his presence might be necessary at court hearings. He has not received an answer from the Sector for Border Police, even after being assured



that all the documents for the request were sent and received in time. Fearing deportation to Iraq, he had no choice but to leave Croatia.

Eventually, Mr Mahdi sought international protection in Germany, but the authorities there sought to return him to Croatia under the Dublin procedure. After initially declining a Dublin request from the German authorities in October 2021, claiming that Mr Mahdi is a threat to national security, the Croatian authorities eventually accepted the request to return him on 24th December 2021. He is currently appealing this Dublin decision before the Administrative Court in Germany, in particular, because his return to Croatia could mean refoulement to Iraq where he would likely face torture, inhumane and degrading treatment.

As this happened in the context of the strategic litigation on the death of Madina Hussiny (Tondo, 2021), this incident has to be seen not only as harassment of Mr. Mahdi, but also the former employee Ms. Tadić through increasing pressure on her family members (Front Line Defenders, 2022b).

Related to the same case of litigation and support, furthermore, Dragan Umičević, a volunteer of the member organisation AYS, was “charged with assisting in the illegal crossing of the state border” of an Afghan family. It is important to note that this as well, was the family of Madina Hussiny. After the 6-year-old Afghan girl died after being pushed back from Croatia in 2017, her family returned to Croatia in 2018, after previously being pushed back two times. To monitor their access to asylum, they contacted AYS. Therefore, Dragan Umičević approached police officers at the border checkpoint to

inform them about the presence of the family and their intention to ask for asylum. This prevented their third pushback and made them available as witnesses in the court case connected to their daughter’s death.

In December 2021, the High Misdemeanour Court of Croatia dismissed the appeal lodged by Dragan Umičević and fined him HRK 60,000 (€8,000), additionally ordering him to pay for the court costs, even though he was acting in accordance with the law (HINA, 2021). This is considered to be the highest financial fine in the history of Croatian misdemeanour courts and is widely interpreted as a retaliation for AYS’s work in supporting the strategic litigation of the family (Lukić, 2021). As this amount was highly over Umičević’s monthly income that amounts to only €650, he was unable to come up with this amount on his own (Are You Syrious?, 2021a). Originally, the Croatian Ministry of Interior demanded a far higher amount of €43.000, a prison sentence for the volunteer, as well as a ban of the CSO’s operations (HINA, 2021). The Court argued that Umičević helped facilitate the illegal border crossing of the group, despite overwhelming evidence proving that the family was already in Croatia when they contacted AYS, and the fact that Umičević never had any direct contact with them.. The case is widely recognised as an example of pressure against human rights defenders (Amnesty International, 2020). The verdict also directly contradicts the previously issued verdict of the European Court of Human Rights in the case of little Madina.

The abovementioned incidents can be classified as “systematic harassment and judicial revenge of [the Croatian] authorities” (Are You Syrious?, 2021b) that should be seen in the



context of the court ruling of the European Court of Human Rights in November 2021 concerning the death of Madina Hussiny (Tondo, 2021).

Over the past years, the volunteers of AYS have been held in Croatian police stations for up to 10 hours when they would present themselves to monitor access to asylum procedures on behalf of their clients. During this informal detention, they were regularly threatened with criminal prosecution, yelled at, humiliated, and then released with no formal charges. This led to AYS stopping their monitoring services with regards to access to asylum in Croatian police stations in 2021, as the NGO could not guarantee the safety of their volunteers.

Simultaneously to increased pressure from the police, both CPS and AYS report on a negative portrayal of their work in national media, leading to a negative attitude towards their operations in the general public. This can be seen by an increase of mentioning of the organisations' names when speaking about human trafficking (Prtorić, 2021). Additionally, the Minister of Internal Affairs publicly stated that CPS and AYS smuggle migrants from Serbia, and give them money, phones, and directions on how to enter Croatia. The Minister of Interior also publicly accused CPS and AYS of conducting illegal activities without due process, which turned out to be completely unfounded and blatant defamation of CPS's and AYS's work.

Looking at the broader Croatian context, the rising number of cases of criminalisation of individuals' solidarity has to be mentioned. Since autumn 2021, member organisation CPS was contacted by multiple individuals who were under charges for "facilitating illegal migration" as a result of giving a ride to people-on-the-move within the

territory of Croatia. All individuals charged for "facilitating illegal migration", according to decisions of the court, should have presumed that a person they are driving is not residing legally in Croatia and will attempt to cross the border irregularly. In one of the decisions, the judge even used racial profiling stating that by the way a person looked like it should have been presumed that the person was an "illegal migrant". This happened even though Croatia's legal framework contains an explicit exemption for facilitating entry to save lives, prevent injuries, provide emergency medical assistance, and humanitarian assistance in accordance with special legislation.<sup>13</sup>

The overall picture shows increasing criminalisation of volunteers supporting people-on-the-move in Croatia. In the case of BVMN's member organisations this is mainly related to supporting people-on-the-move in accessing their human rights as well as the justice system.

## GREECE

### Increased arbitrary and informal acts of policing

Concerning the criminalisation of CSOs in Greece, the member organisations Mare Liberum and Josoor as well as one of BVMN's anonymous organisations have contributed with reports on incidents targeting the organisations, their activities, and their members. In addition, ASGI, an Italian external partner organisation of BVMN, elaborated on experiences at the Greek-North Macedonian border.

Mare Liberum has repeatedly experienced harassment in the form of excessive administrative controls or audits, surveillance by law enforcement, as well as serious threats by the Hellenic

13 -Article 53(2) Croatian Foreigners Act, 130/2011, 74/2013. [https://ec.europa.eu/migrant-integration/library-document/foreigners-act-1302011-742013\\_en](https://ec.europa.eu/migrant-integration/library-document/foreigners-act-1302011-742013_en)



Coast Guard in the form of threatening with firearms.

In July 2021, Mare Liberum's ship was stopped after leaving Mytilene port by the Hellenic Coast Guard. They checked and took photos of the passports of all members and asked detailed questions about their route. In the early morning, before arriving at Chios, the boat was stopped again by the Hellenic Coast Guard. Three masked men in camouflage uniform with their finger on their machine-guns' trigger, asked for all crew members to assemble on deck, checked their papers and left in the direction of Chios harbour. On their way to the harbour, Mare Liberum's crew passed two more boats of the Hellenic Coast Guard. On these were weapons installed at the front which were pointing at the organisation's boat. When Mare Liberum's boat passed, they turned with them, continuously pointing the weapons in their direction.

In October 2021, Mare Liberum facilitated a mission in the Aegean Sea for approximately 24 hours. Beforehand, Mare Liberum was visited and contacted via telephone several times by the Greek authorities. During their mission their "monitoring vessel was checked, followed, photographed and ultimately ordered to leave the sea" (BVMN, 2021b, p. 10). After they had exchanged emails several times with the authorities, they were "forced to return" and "leave the anchoring spot" (BVMN, 2021b, p. 10). However, they never received a written order prohibiting their operations at the chosen location, north of Lesbos, nor a written explanation stating the reasons for having to discontinue their mission. This can be seen as arbitrary as several other ships of private actors like fishing companies are regularly present at sea, and there is additionally no NAVTEX<sup>14</sup> on any driving constraints existing for

this area (Mare Liberum, 2021a; BVMN, 2021b).

At the end of October 2021, Mare Liberum was allowed to leave the port for the commemoration of those who died at Europe's external borders. The permission was given under the obligation "to abstain from monitoring, stay far away from the border and call the authorities every hour". This was combined with the threat "that 'any deviation' from their orders would result in 'criminal sanctions'" (BVMN, 2020, p. 10; Mare Liberum, 2021b). Consequently, in February 2022, Mare Liberum added a post on their Facebook explaining they "had to halt [their] operations at sea due to a change in Greek law" and that "there are currently no civil monitoring or rescue assets active in the Aegean Sea" (Mare Liberum, 2022). The fact that Mare Liberum had to discontinue their operation has a serious impact on their ability to monitor human rights violations in the Aegean Sea.

In 2020, BVMN member organisations Mare Liberum and Josoor were subject to a criminal investigation by the Greek police, secret service, and the coastguard (Christides et al., 2020). After the six month long investigation, which allegedly included the recruitment of two asylum seekers as informants and surveilling communication of the four CSOs team members, was concluded the Greek police issued a press release about the case. Without informing the accused organisations, the authorities proceeded to leak all the details of the case, including police documents, to the Greek media who launched a large-scale smear campaign mixing information from the authorities with wild additional accusations and claims under headlines such as "NGOs for human trafficking and espionage" (Popotas & Kalyva, 2020). To this day

14 - NAVTEX, or Navigational Telex, is an automated medium frequency direct-printing service that is used internationally to deliver messages to ships. For more information see: <https://www.weather.gov/marine/gmdss> under NAVTEX.



there has been neither a trial nor an indictment, and therefore this case can be considered as continued harassment in the form of legal action against the volunteers in question, while at the same time leading to negative media coverage and defamation of CSOs' commitment to protect the fundamental rights of people-on-the-move (Gruber, 2021).

In addition, in an investigation concluded in July 2021 by Greece police, member organisation Josoor has been accused of paying money for fake testimonies of human rights violations and thus spreading fake news. The accusation would normally not have posed an actual threat, but with the newly introduced law that criminalises the spread of fake news in Greece<sup>15</sup>, there is a higher chance the law will be used as a basis to further criminalise CSOs (Human Rights Watch, 2021). At the time of the conclusion of this investigation, even if remotely true, this would not have constituted a criminal offence. With the new law, however, the Greek government, that to this day maintains that all reports of fundamental rights violations at its borders are "Turkish fake news", can - and might already - conduct another investigation and this time press criminal charges.

Furthermore, one of BVMN's anonymous member organisations in Greece reports about an increase in police presence throughout 2021 at their distribution site. Their presence has become almost a daily occurrence in Northern Greece in the form of officers dressed in civilian clothes walking through, driving around in unmarked cars, and parking visibly in the vicinity of the distribution site, observing the activities from police vehicles. Actions have gone as far as halting distribution activities in order to check IDs and working permits. Even though the

police presence is coherent with legal obligations and partly justified by the COVID-19 measures (BVMN, 2020; BVMN 2021c), it is not only interfering with the daily procedures of the organisations but it also inflicts fear among the community members and service users who are often undocumented and afraid of being pushed back. Because of this, they are discouraged from coming to the distribution site to receive basic humanitarian aid like food, sleeping bags, blankets, clothing, hygiene items, and medical assistance.

The following incident was included as an act of criminalisation in Greece although those that were implicated were Italian citizens from ASGI, BVMN's external partner organisation. They were targeted in Greece due to their fundamental rights work for people-on-the-move.

On November 6, 2021, four Italian citizens and members of ASGI were returned from Greece to North Macedonia against their will and in an illegal manner by Greek authorities. The delegation of lawyers had travelled from North Macedonia to Greece, entering through the official border crossing with valid documentation. As they were conducting an exploratory short visit in Idomeni, a Greek town bordering North Macedonia, they were stopped by a Frontex officer and asked for identification. Within a few minutes the delegation was surrounded by ten law enforcement officers, both from Frontex and the Greek police. The delegation was accused of irregularly crossing the border and their identity documents were confiscated by the police without any clarification on the reason for the confiscation. The group was taken to the local police station and, after having been verbally harassed by the officers present at the police station, the delegation waited in

15 -See Chapter Forms of Criminalisation: Formal Criminalisation - Harassment through Legal Means of this report for an elaboration on the Greek law against the spread of 'fake news'.



the outdoor area during the ongoing controls. Despite the validity of their identity documents fulfilling entry requirements to cross the Greek border, the four Italian citizens were taken back to the border crossing point, escorted by two Frontex cars, and forced to leave Greece by walking to the border crossing point in North Macedonia (ASGI, 2021).

To summarise, acts of criminalisation in Greece seem to mainly include arbitrary acts of informal criminalisation through police presence, disruption of activities, identification checks, and acts of intimidation and harassment.

## SERBIA

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### **Acts of harassment by the local community and authorities**

The instances of the criminalisation of CSOs in Serbia include reports from BVMN member organisation NNK and Collective Aid.

Based in Šid, member organisation NNK is on a regular basis the subject of negative posts by the Facebook group "Omladina Šida" (Youth in Šid) that campaigns against their work and people-on-the-move more generally, hence fueling far-right attitudes from the local community. By posting pictures of volunteers, they not only disregard individuals' right to privacy but also affect their safety. This consequently led to an increase of police harassment against NNK and its volunteers.

Apart from online harassment, the organisation also reported on vandalism of their vehicles over the past year. On the 1st of January 2021, the car of a volunteer was demolished. The windshield was damaged and on

the back of the car the word "leave" was graffitied. On the night of January 6 2021, the licence plates of the same car were stolen. On January 8 2021, the licence plates of the van that was normally used for distributions were stolen as well. These acts of vandalism were most likely executed by civilians as volunteers were regularly harassed by local residents on the street.

Furthermore, the organisation experienced verbal threats and harassment of its volunteers by the local community. In September 2021, NNK reported the harassment of its volunteers in a local shop where a customer threatened that "if the 'Muslim hordes' invading his country did anything to this daughter, he would seek revenge against the organisation" (BVMN, 2021c).

In Spring 2021, NNK's lawyer reported to be dealing with nine cases in which volunteers were expelled from the country. In addition, NNK reports a high presence of police observing its work, instances of verbal threats or harassment by police, as well as excessive administrative controls targeting members of the organisation. In Autumn 2021, a volunteer from NNK in Šid was arrested by the local police when assessing the situation of people-on-the-move in a neighbourhood village. They reported "being detained, frisked, and interrogated by special police units, their IDs and notebooks were inspected and photographed before they were driven out of town and told to never return" (Kemp, 2021, third paragraph).

Employees and volunteers of Collective Aid, based in Subotica, reported to have experienced diverse forms of offline verbal threats and harassment in different locations across Northern Serbia. The main perpetrators were local citizens and employees of



the Commissariat for Refugees, as well as police officers. The organisation reported that the van used for distributions was repeatedly vandalised in 2021. This, as well as other acts of vandalism, are most likely linked to private actors. When contacting the police to report the incident, their testimony was taken but it was said that issuing a written document was impossible. They referred the organisation to Interpol, stating it was their responsibility as the van was registered in a foreign country. However, it was impossible to open a case with Interpol without a case number from a competent national authority. Due to these administrative obstacles, the organisation was unable to report the incident in an effective manner.

Throughout 2021, the organisation was also repeatedly the target of harassment in the form of excessive administrative controls or audits, such as ID checks by state actors. In March 2021, two volunteers were summoned to the police station to be questioned there; one volunteer was held and questioned for four hours. Additionally, it was reported that intimidation tactics were used. In December 2021, two police officers in civilian clothes arrived at Collective Aid's warehouse in Subotica where they checked the IDs of all team members present at the site, as well as the organisation's registration documents, and questioned them about their activities. Reportedly, they also denied the organisation's right to information on the purpose of their visit.

Moreover, the organisation has been obligated to inform the local police beforehand of the exact date and time of their distributions to people-on-the-move in Majdan and Rabe, near the Romanian border, during periods of high police attention. In January 2022, the team was followed by a police car to one of their regular

distribution sites and asked to stop operating there. When trying to engage in a constructive conversation, the volunteers were asked to stop their distributions in all locations but one, as "the Hungarian police will not like it". When trying to explain the background of the distribution at the location, the officer signalled that she was not interested in a conversation, started talking in an aggressive way and verbally intimidated the volunteers. As a result of the incident, the organisation has been forced to stop distributing in Rabe by the Hungarian border in order to protect its volunteers from arbitrary deportation. Additionally, in Belgrade, where Collective Aid has another operating location, ID checks of volunteers are regular during their shifts, with police in uniform and civilian clothes checking the centre as a common occurrence. Arrests of people-on-the-move have also taken place at the door of as well as inside the centre without a warrant. The organisation also points to the increasing fear of deportation of volunteers, which is difficult to appeal because of the short notice of these acts.

To summarise, both NNK and Collective Aid report on a massive increase in police presence at their distribution sites, partly justified by the COVID-19 pandemic, and increased harassment from the local community (BVMN, 2020; BVMN, 2021c). This is not only interfering with their daily procedures but also perceived as a threat by the CSO's team members conducting their work. These forms of informal criminalisation on the direct support side of NNK and Collective Aid's work makes it increasingly difficult to conduct vital humanitarian work, including building a relationship of trust with people-on-the-move, which is of the highest relevance in the documentation of fundamental rights violations and related advocacy work.



## TURKEY

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The instances of the criminalisation of CSOs in Turkey include reports from BVMN member organisation Josoor.

As mentioned above in the paragraph relating to incidents of criminalisation in Greece, BVMN's member organisation Josoor was a target of criminalisation by the Greek government in 2020.<sup>16</sup> However, as there was neither a trial nor an indictment, it is difficult to consider this as an act of formal criminalisation. At the least, this can be considered as informal criminalisation with the ongoing harassment against the volunteers in question, while at the same time leading, to this day, to negative media coverage and defamation of CSOs' commitment to protect the fundamental rights of people-on-the-move (Gruber, 2021). As also mentioned above, Josoor has since been informed of a second criminal case, including the allegation of spreading fake news, which might pose a severe potential of further criminalisation.<sup>17</sup>

These two cases of criminalisation, even though undertaken in Greece, had severe effects for the CSO's work and service provision in Turkey. Josoor's members are no longer able to travel to Greece in order to meet other partner organisations or participate in events which has a serious impact on their abilities to conduct advocacy. Digital surveillance and tapping of the organisation's volunteers' phones led to expenses and psychological pressure, leaving some team members unable to work.

In addition, the organisation has been struggling with repression from Turkish authorities. Undercover officers have consistently been present at their support sites, people-on-the-move previously supported by the organisation were shown private facebook profiles of Josoor team members by police officers asking if they had been in contact with them. In addition, five of the volunteers of member organisation Josoor had their residence permits revoked in Turkey in 2020 and 2021. Two of them were EU citizens who were given 24 hours to leave the territory. They could simply comply and return to their countries of origin or continue their work with other organisations in other countries. The other three however were from the community of people-on-the-move, one of whom had the option to return to his country of origin without being at risk of persecution but the others did not have this same option available to them. They were forced to lodge an appeal (with high legal fees) against the decision while remaining in the country under highly precarious circumstances.

To summarise, criminalisation experienced by Josoor in Turkey stems from governmental actors, both from Turkey and externally (from Greece) which does not only impact the organisation's team members but also their work with people-on-the-move. While criminalisation facilitated by Greek actors includes informal criminalisation and resulting smear campaigns, criminalisation by Turkish authorities include forms of informal criminalisation and scrutiny, as well as the implementation of visa-related obstacles.

16 - See accusation of 33 CSO members of forming a criminal organisation, espionage, facilitation of illegal entry, and violation of state secrets (Ekathimerini, 2020).

17 - Concerning the second criminal case Josoor is targeted at by the Greece government, see country chapter on Greece (7c.), concerning the potential danger of the law on fake news, implemented in 2021, see Human Rights Watch, 2021.

# CONCLUSION

By listing and contextualising incidents of the criminalisation of BVMN member organisations and their team members, this report highlights the deteriorating situation for CSOs working in support of people-on-the-move and monitoring human rights violations in the EU and at its external borders.

As BVMN and its member organisations only constitute a small number of CSOs working to support and monitor fundamental rights of people-on-the-move and not all BVMN member organisations contributed to supplying information to this report, it cannot be regarded as representative. However, it sheds light on highly relevant tendencies within an increasingly deteriorating environment for CSOs working in this field, among them increasing threats against volunteers and employees supporting CSOs, including forms of formal and informal criminalisation, as well as acts related to visa procurement. Concerning informal criminalisation, in particular an increase of administrative barriers has to be mentioned, which take different forms as they are highly dependent on the political and societal context of the respective country.

Some instances of the attacks and threats mentioned above, lead to the limitation of the work conducted by BVMN's member organisations, in particular concerning the monitoring of state actors and their compliance with human rights. At the same time, they are directly related to an increasing criminalisation of CSOs working with people-on-the-move in border areas, which is often facilitated through more restrictive legal obligations. It can be argued that criminalisation attempts

and acts of public defamation against the Network and its member organisations are often designed to undermine the legitimacy of BVMN's work and the organisations involved. Hence making it increasingly difficult to implement the Network's humanitarian support activities.

It is of vital importance to make clear that the secondary criminalisation of CSOs and their employees and volunteers stems from the direct criminalisation of migration and increased policy frameworks of externalisation, containment and control. The growing dangerous environment for CSOs' employees and volunteers only reflects a small part of the criminalisation people-on-the-move are subject to, which is even less well-known as they are lacking a network, representation, support, amongst other things. The monitoring of state actors and their compliance with human rights is of utmost necessity, however currently already barely achievable and, if the current developments continue, soon will be absolutely impossible. Europe is headed towards a frightening future for anyone who still upholds the values on which the EU was originally founded on.

BVMN and its member organisations are one of several CSOs working in an increasingly restrictive environment to support and monitor the fundamental human rights of people-on-the-move in the EU. Here, the restrictive legal environment for CSOs working in this sector, is combined with increasing societal, administrative, and police pressure. This is no longer a country-specific phenomenon, but rather a European-wide trend that, in line with the EU's externalisation policies on migration in general, extends well beyond its external borders.

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