**QUESTIONNAIRE OF THE SPECIAL RAPPORTEUR ON HUMAN RIGHTS OF MIGRANTS ON HUMAN RIGHTS VIOLATIONS AT INTERNATIONAL BORDERS: TRENDS, PREVENTION AND ACCOUNTABILITY**

**Submission by Save the Children on child rights violations at international borders in Bosnia and Herzegovina and Serbia**

Save the Children is hereby submitting input regarding child rights violations at international borders. Contributions have been collected in Italy, Greece, Spain, Bosnia and Herzegovina and Serbia by Save the Children representatives. The submission is not intended to be exhaustive.

The Special Rapporteur is particularly interested in receiving inputs on any or all of the following issues:

**1. Please provide information on any recently adopted domestic legislation amending border entry, asylum and other international protection procedures for non-nationals since May 2021. Grateful if you could kindly submit the original text of the relevant provisions of the legislation or policy(ies), accompanied by an English translation if it is in a language other than English, French or Spanish.**

In September 2021, Serbia and Ukraine amended its agreement to allow citizens of Ukraine to stay in Serbia for 180 days without visas.[[1]](#footnote-1) Additionally, on 9 September 2021 Serbia adopted the Action plan for the period 2021-2023[[2]](#footnote-2) for the implementation of the Strategy on Economic Migration of the Republic of Serbia for the Period 2021-2027.[[3]](#footnote-3) This document focuses on both the position of incoming economic migrants as well as outgoing. There were no other amendments to the relevant border entry and asylum legislation in Bosnia and Herzegovina and Serbia in the given timeframe.

**2. Please provide information on recent or current border management legislation/policies/measures, (including those temporary measures as part of a state of emergency), with the view to control, reduce or prevent migrant arrivals in your country.**

The common characteristic of border management in the Balkans is the prevalence of violence and torture despite differences in the level of application of this practice in particular countries. Various reports indicate that the number of collective expulsions at the Croatian border are among the most numerous and violent ones.[[4]](#footnote-4) In parallel with Frontex being under unprecedented examination for human rights violations at the EU’s borders, the Agency’s missions are being launched throughout the region.[[5]](#footnote-5) The first joint Frontex action with Serbia launched in mid-June 2021 at the country’s border with Bulgaria.[[6]](#footnote-6) Highest Serbian officials have recently exhibited a change in narrative, with monthly high-profile statements since October 2021 that Serbia will not be a ‘parking lot’ for migrants and refugees, while at the same time downplaying the relevance of the crisis in Afghanistan and new arrivals.[[7]](#footnote-7) Joint patrols with Hungary were established on both northern and southern (towards North Macedonia) borders of Serbia in October 2021, as a result of ‘Serbia and Hungary having the same stance regarding illegal migration’.[[8]](#footnote-8) The plan of establishing a wired fence on the border between Serbia and North Macedonia appeared in the press in mid-2020; the EU denied the connection with its funds with the construction of the fence[[9]](#footnote-9) while there were no other official statements so far.

**3. Please provide information on how the "safe third country" concept is applied and if there is any "safe third country" list in your country with the view to expedite border immigration and asylum procedures, as well as on any bilateral and multilateral agreement on collective/automatic re-admission of migrants of specific nationalities.**

A readmission agreement and protocol signed last year between Bosnia and Herzegovina and Pakistan came into force on 23 July 2021,[[10]](#footnote-10) thereby opening doors for the deportation of Pakistani nationals, who represent around a quarter of all refugees and migrants in the country. The agreement and accompanying protocol are not publicly available.[[11]](#footnote-11) Serbia was automatically applying the ‘safe third country’ concept since 2008, however, the number of such cases was significantly reduced after the 2018 amendments to the asylum and foreigners' legislation. Nevertheless, the 2009 Decision of the Government of the Republic of Serbia on Establishing the List of Safe Countries of Origin and Safe Third Countries[[12]](#footnote-12) is still in force and the Administrative Court to date did not find that its automatic application represents a breach of the non-*refoulement* principle.

**4. Please provide information on any progress made in developing independent border monitoring mechanism(s) at the national level.**

Refugees and migrants continue to testify about pushbacks and violence at the borders to Save the Children and other stakeholders across the Balkans route[[13]](#footnote-13). At the end of 2020 and the first half of 2021, the Serbian NHRI conducted a monitoring mission, including at the border areas, collecting allegations concerning the actions of the Serbian authorities as well as the authorities of the bordering countries.[[14]](#footnote-14) Although important, the monitoring visit cannot be regarded as a regular independent monitoring mechanism. In its report, the Serbian Protector of Citizens concludes that cross-border cooperation among NHRIs and NPMs is crucial in terms of monitoring and reporting human rights violations and could be increased. Loss of life at the borders along the Balkans route continued to be reported throughout 2021, including children,[[15]](#footnote-15) but there is no mechanism established for monitoring cases and data collection, while the search for missing migrants and the repatriation of bodies mainly depends on volunteering groups. Croatia’s border monitoring mechanism announced in mid-2021 was evaluated as falling short of the standards needed to ensure its effectiveness and success[[16]](#footnote-16).

1. Law on Ratification of the Agreement between the Government of the Republic of Serbia and the Cabinet of Ministers of Ukraine on Amendments to the Agreement between the Government of the Republic of Serbia and the Cabinet of Ministers of Ukraine on Visa Waiver for Their Citizens, *Official Gazette of the Republic of Serbia - International Agreements*, no. 17/2021, available in Serbian [here](https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/mu/skupstina/zakon/2021/17/6/reg). [↑](#footnote-ref-1)
2. The Action Plan is available in Serbian [here](https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/drugiakt/2021/89/1/reg). [↑](#footnote-ref-2)
3. The Strategy is available in Serbian [here](https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/strategija/2020/21/1/reg). [↑](#footnote-ref-3)
4. Due to the extreme and prolonged nature of violence occurring at the Croatian border, the Council of Europe anti-torture committee has unilaterally issued a report following its *ad hoc* rapid reaction visit to, among other places, Croatian border with Bosnia and Herzegovina. The Committee noted that it ‘was provided with incomplete information about places where migrants may be deprived of their liberty and it was obstructed by police officers in accessing documentation necessary for the delegation to carry out the Committee’s mandate’. The report provides an insight into allegations of severe ill-treatment of refugees and migrants by Croatian border police officers, including the accounts of collective expulsions in the specifically brutal manners, including zip-locking the hands of refugees and migrants and then throwing them into the Korana River which separates Croatia and Bosnia and Herzegovina. The Committee’s statement and the report are [available here](https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-report-on-its-2020-ad-hoc-visit-to-croatia). See also: Protecting Rights at Borders (PRAB), *Human dignity lost at the EU’s borders: Thousands of men, women and children await winter at EU borders without access to rights, justice or basic assistance to survive*, December 2021, p. 2, available [here](https://drc.ngo/media/rzplexyz/prab-iii-report-july-to-november-2021_final.pdf). [↑](#footnote-ref-4)
5. The working arrangements with these countries are available in English [here](https://frontex.europa.eu/about-frontex/key-documents/?category=working-arrangements-with-non-eu-countries). [↑](#footnote-ref-5)
6. European Commission, *Frontex expands presence in Western Balkans with operation in Serbia*, 16 June 2021, available [here](https://frontex.europa.eu/media-centre/news/news-release/frontex-expands-presence-in-western-balkans-with-operation-in-serbia-9WRMiW). The cooperation is made possible under the Law on Ratification of the Agreement on Status between the Republic of Serbia and the European Union on Actions Implemented by the European Border and Coast Guard Agency in the Republic of Serbia, *Official Gazette of the Republic of Serbia - International Agreements*, no. 3/2021, available in Serbian [here](https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/mu/skupstina/zakon/2021/3/3/reg). [↑](#footnote-ref-6)
7. September 2022 statement by the President of Serbia available in Serbian [here](https://beta.rs/vesti/politika-vesti-srbija/151789-vucic-srbija-nece-biti-parking-za-izbeglice-iz-avganistana-dolazak-par-stotina-ljudi-nije-nista); January 2022 statement by the Minister of Interior available in Serbian [here](https://www.b92.net/info/vesti/index.php?yyyy=2022&mm=01&dd=18&nav_category=12&nav_id=2090522); February 2022 statement by the Minister of Interior available in Serbian [here](http://www.tanjug.rs/full-view.aspx?izb=715335). [↑](#footnote-ref-7)
8. The Government of the Republic of Serbia, *Joint police patrols of Serbia, Hungary to protect two countries’ borders*, Press release, 15 October 2021, [available here](https://www.srbija.gov.rs/vest/en/179734/joint-police-patrols-of-serbia-hungary-to-protect-two-countries-borders.php). [↑](#footnote-ref-8)
9. # ‘EU: Building of wire fence between Serbia and North Macedonia not agreed upon’, N1, 20 August 2020, [available here](https://rs.n1info.com/english/news/a631707-eu-building-of-wire-fence-between-serbia-and-north-macedonia-isnt-agreed/).

   [↑](#footnote-ref-9)
10. *Official Gazette of Bosnia and Herzegovina – International agreements*, no. 4/2021, available in Bosnian [here](http://www.sluzbenenovine.ba/page/akt/hNpNPuX9K9Y=). [↑](#footnote-ref-10)
11. The official decision on the ratification does not contain the text of the agreement nor the protocol. Article 2 of the decision is incomplete. See the reference above for the full text of the decision. [↑](#footnote-ref-11)
12. *Official Gazette of the Republic of Serbia*, no. 67/2009, available in Serbian [here](https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/odluka/2009/67/1/reg). [↑](#footnote-ref-12)
13. In 2021, DRC recorded the highest rates of pushbacks at the border between Croatia and Bosnia and Herzegovina, with 10 percent of all pushback incidents involving children, [available here](https://drc.ngo/about-us/for-the-media/press-releases/2021/12/12-000-pushbacks-in-2021-reflects-worrying-normalization-of-illegal-practice/) [↑](#footnote-ref-13)
14. Protector of Citizens of the Republic of Serbia, *National Report on the situation of human rights of migrants at the borders*, July 2021, [available here](https://ennhri.org/wp-content/uploads/2021/07/Serbian-National-Report-3.pdf). [↑](#footnote-ref-14)
15. ’Five-year-old migrant boy drowns in river on the Bosnia-Croatia border’, N1, 30 July 2021, [available here](https://hr.n1info.com/english/news/five-year-old-migrant-boy-drowns-in-river-on-the-bosnia-croatia-border/). [↑](#footnote-ref-15)
16. Human Rights Watch, *Croatia/EU: Strengthen Border Monitoring System*, 2 August 2021, [available here](https://www.hrw.org/news/2021/08/02/croatia/eu-strengthen-border-monitoring-system). [↑](#footnote-ref-16)