

MARRI

Migration, Asylum, Refugees Regional Initiative



BEYOND THE REFUGEE CRISIS

REFLECTIONS ON THE EU MIGRATION POLICY AND ITS
RELEVANCE TO THE WESTERN BALKANS

Briefing Paper

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List of Abbreviations

EAM	European Agenda on Migration
EASO	European Asylum Support Office
EC	European Commission
EU	European Union
Frontex	European Border and Coast Guard Agency
MARRI	Migration, Asylum, Refugees Regional Initiative
UNCHR	The UN Refugee Agency
WB	Western Balkans
WB6	Western Balkans Six

1. Introduction and Context

1.1. Preface

This briefing paper provides an overview of the European Union (EU) strategic framework on migration, with a focus on key initiatives, proposals and actions relevant to the Western Balkan (WB) region. Its purpose is to serve as a secondary source of information for migration management practitioners, policy makers and civil society professionals who are involved or interested in migration-related developments in the WB region.

The publication is compiled for the needs of the Migration, Asylum, Refugees Regional Initiative (MARRI): a unique structure with a mandate to promote closer cooperation in the WB region in the areas of migration, asylum, border control, visa regime and integration/return of refugees. MARRI is made up of six Participants: Albania, Bosnia and Herzegovina, Kosovo*¹, Macedonia, Montenegro and Serbia.

The briefing paper is therefore based on MARRI's regional approach to cooperation on migration issues, with a view on the common needs, challenges and priorities of its Participants in their EU accession process. "Western Balkans Six" (WB6) will be used throughout the text as a common term to refer to the abovementioned six MARRI Participants².

1.2. Introduction

Migration is one of the political priorities of the European Union (EU). The European Commission (EC), under the leadership of President Jean-Claude Juncker, has entrusted Dimitris Avramopoulos as a Commissioner with a special responsibility to coordinate a comprehensive EU response for better migration management. A result of this effort is the European Agenda on Migration (EAM) adopted in May 2015, which sets out a joint European response involving all actors: EU Member States and institutions, international organisations, civil society, local authorities and national partners outside the EU³.

There follows an overview of the four key areas highlighted in the EAM as priorities for a fair, robust and realistic EU migration policy. These are: reducing the incentives for irregular migration, improving external border management, working towards a strong common EU asylum policy and devising a new EU policy of legal migration. The focus of this analysis will revolve around EC's view of the main challenges and key policy priorities in the partnership between the EU and WB6. Subject of this paper will be the EU migration strategic framework:

¹This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence

²In 2014 the political leaders of the Western Balkan countries Albania, Bosnia and Herzegovina, Macedonia, Kosovo*, Montenegro and Serbia met for the first time under the term Western Balkans Six (WB6) in Berlin. The aim was to bring a new dynamism to regional cooperation.

³ European Commission COM (2015) 240 final: "COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, A EUROPEAN AGENDA ON MIGRATION", P 2, published on 13 May 2015, available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf

the EAM, its State-of-Play reports and the EU Migration Partnership Framework (adopted in June 2016 as part of the EAM)⁴.

1.3. Context

In the migration context, the Western Balkans is a region of transit and, to a lesser extent, region of destination for refugees and migrants. At the same time, it is a region of origin for WB nationals who request asylum in EU Member States and Schengen associated countries.

Since mid-2015, the Western Balkans region has been on the forefront of international migrant crisis. Fleeing war and persecution, large numbers of migrants from Syria, Iraq and Afghanistan transited through the Western Balkan route. They entered the EU in Greece, trying to make their way via Macedonia and Serbia into Hungary and Croatia and then towards Western Europe.

According to Frontex⁵, the European Border and Coast Guard Agency, in all of 2015 the WB region recorded 764 000 detections of irregular border crossings by migrants, a 16-fold rise from 2014⁶.

In March 2016, the Western Balkans route was effectively closed following unilateral restrictions and bans on migrants traveling through the region. Since the de facto closure of the route, the number of irregular border crossings in the region dropped to 122 779⁷.

In 2017, the Western Balkans route remained closed for transit of migrants and refugees. UNHCR⁸, the UN Refugee Agency, reports that people who continue to move along the Western Balkans route use smugglers and smuggling channels to transit through the region⁹.

The European Union took a great part in alleviating the brunt of the migrant influx, through providing financial and technical assistance. Large part of the relief effort was provided by the EC, other EU agencies and other humanitarian actors, which have been working closely with the Serbian and Macedonian authorities to meet the humanitarian needs of new arrivals and stranded populations as well as the most vulnerable among the refugees. On 25 October 2015, under the leadership of EC President Jean-Claude Juncker, leaders representing Albania, Austria, Bulgaria, Croatia, Macedonia, Germany, Greece, Hungary, Romania, Serbia

⁴ European Commission COM(2016) 385 final: "COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL AND THE EUROPEAN INVESTMENT BANK on establishing a new Partnership Framework with third countries under the European Agenda on Migration", published on 7 June 2016, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_external_aspects_eam_towards_new_migration_ompact_en.pdf

⁵ European Border and Coast Guard Agency

⁶ Frontex, the European Border and Coast Guard Agency, 'Western Balkans Route': an overview available at: <http://frontex.europa.eu/trends-and-routes/western-balkan-route/>

⁷ Frontex Western Balkans Annual Risk Analysis 2017, official publication (May, 2017), available at: http://frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2017.pdf

⁸ The UN Refugee Agency

⁹ UNHCR, the UN Refugee Agency, 'Refugees and migrants face heightened risks while trying to reach Europe', UNHCR Report, available at: <http://www.unhcr.org/news/press/2017/2/58b458654/refugees-migrants-face-heightened-risks-trying-reach-europe-unhcr-report.html>

and Slovenia agreed to implement a 17-point plan of action to tackle the refugee crisis¹⁰. Key issues covered in the plan included strengthening border controls, increasing reception capacities (both temporary and long-term), as well as ensuring more effective management of migration flows.

In its most recent State of Play report on the Western Balkans route, published in February 2016, the EC pointed out that the most pressing challenge for the region is restoring orderly management of borders with an aim to avoid unilateral decisions which may have a domino effect¹¹. Other migration-related challenges include strengthening the capacity of migration management authorities to ensure safe and orderly transit of migrants, as well as improving inter- sectorial cooperation and information exchange with a view to address the lack of reliable data on the scope and structure of migration flows¹².

2. EU Migration Agenda and its Relevance to the Western Balkan Context

2.1. Reducing the Incentives for Irregular Migration

As stated in the EC Communication on the EAM, “It is in the interests of all to address the root causes which cause people to seek a life elsewhere, to crack down on smugglers and traffickers, and to provide clarity and predictability in return policies”¹³.

One of the key actions in this policy area is strengthening the role of EU delegations on migration-related matters in key regions of origin and transit. “Delegations will in particular report on major migratory related developments in the host countries, contribute to mainstream migration issues into development cooperation and reach out to host countries to ensure coordinated action”¹⁴.

For the purpose of gathering, exchanging and analyzing information on irregular migration, Frontex has deployed a dedicated, Belgrade-based liaison officer for the Western Balkans appointed in the spring of 2017¹⁵.

The EU will also invest additional funds in tackling global issues like poverty, insecurity, inequality and unemployment which are among the main root causes of irregular and forced

¹⁰ European Commission, ‘Western Balkans Migration Route: 17-Point Plan of Action’, news release (October 2015), available at: https://ec.europa.eu/home-affairs/what-is-new/news/news/2015/20151026_1_en

¹¹ European Commission, “Implementing the European Agenda on Migration: Commission reports on progress in Greece, Italy and the Western Balkans”, press release (February 2016), available at: http://europa.eu/rapid/press-release_IP-16-269_en.htm

¹² European Commission Progress Reports for candidate and potential candidate countries (November 2016), available at: https://ec.europa.eu/neighbourhood-enlargement/countries/package_en

¹³ European Commission COM (2015) 240 final, “COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, A EUROPEAN AGENDA ON MIGRATION”, P 7, published on 13 May 2015, available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf

¹⁴ Ibid

¹⁵ Frontex news, 28 November 2016, available at: <http://frontex.europa.eu/news/frontex-to-deploy-liaison-officer-in-western-balkans-r8CFKb>

migration. With a budget allocation of EUR 96.8 billion for the 2014-2020 period, the EU will increase its support to, inter alia, the region of Eastern Europe where most of the migrants reaching Europe originate from or transit through¹⁶.

A major focus of the EU's cooperation in the migration management area will be on cracking down organized criminal groups that control smuggling routes. This is particularly important for the Western Balkans as most migrants transiting through the region rely on smugglers' networks¹⁷. Hence why a key future action in the EU partnership with WB6, as stated in the most recent Progress Report on the implementation of the EAM, will be to "continue monitoring trends and fight against smuggling on the Western Balkan route, including through cooperation between Member States and relevant agencies"¹⁸.

In addition, the EU will provide support to WB6 to fulfill their international obligation to facilitate the return of their own nationals residing irregularly in Europe. Frontex will serve as a focal point for operational efforts on return of migrants from EU Member States. In 2017, Frontex coordinated 279 return operations with Albania, Tunisia, Kosovo*, Serbia and Macedonia appearing as top five return destinations¹⁹.

2.2. Border Management – Saving Lives and Securing Borders

In this policy area, the EU is committed to develop high standards for all aspects of its external border management. This will make it easier for Europe to "support third countries developing their own solutions to better manage their borders". In the context of the WB route, where a number of irregular migrants continue to succeed in progressing undetected, particular focus will be placed on increased cooperation with Frontex and Europol in order to ensure continued vigilance and information exchange²⁰.

Negotiations of Frontex with Serbia and Macedonia towards the completion of their status agreements are ongoing. In the near future, Frontex will be able to support these countries to manage their borders by deploying teams in their territories. "On 16 October 2017, the Council gave green light to negotiate similar agreements with Albania, Montenegro and Bosnia and Herzegovina"²¹.

2.3. Strengthening Asylum Systems- Support for Reforms

According to the EU Migration Partnership Framework, "(A) reformed Common European Asylum System will remedy the existing system which was unable to cope with people

¹⁷ Ibid: UNHCR

¹⁸ European Commission COM (2017) 669 final: Progress Report on the European Agenda on Migration (November 2017), p8, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20171114_progress_report_on_the_european_agenda_on_migration_en.pdf

¹⁹ Ibid, Progress Report on European Agenda on Migration, p15

²⁰ Ibid, p3

²¹ Ibid, p18

effectively ignoring the rules and travelling to their country of choice”²². Hence why, coherent implementation of the Common European Asylum System across Member States is a priority for the EU.

However, in order to ensure adequate international protection for all migrants, the EU is also committed to support its partners to improve their national asylum systems. The asylum-related legal frameworks of WB6 are largely in line with the EU acquis. Most of them also have the necessary institutions and procedures in place to handle asylum claims²³.

But, with regard to the asylum procedure, the capacity of WB6 to assess individual asylum claims remains weak. More training is needed in this regard, particularly on countries of origin, and on cases involving vulnerable migrants and people who enter a state in an irregular manner²⁴.

To address this situation, the European Asylum Support Office (EASO) delivered an advanced training of trainers for 13 case managers from WB6 and Turkey on interviewing vulnerable persons²⁵. In addition, In October 2017, EASO organized a workshop for 31 WB judges on European law relating to asylum²⁶.

Another pressing challenge for WB6 is decreasing the high number of unfounded asylum requests lodged by their nationals to EU Member States and Schengen associated countries. This is a persisting problem stemming from the introduction of the EU’s visa-free regime for Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia (2009-2010). To prevent risks of misuse of the visa-free scheme, the EC put in place a mechanism to monitor the implementation of the measures taken by WB6 towards addressing potential abuses. In light of its efforts to reform the Common European Asylum System and to reinforce the post-visa liberalization monitoring mechanisms, the EC will propose “strengthening Safe Country of Origin provisions of the Asylum Procedure Directive to support the swift processing of asylum applicants from countries designated as safe”²⁷.

²² European Commission, COM(2016) 385 final: COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL AND THE EUROPEAN INVESTMENT BANK on establishing a new Partnership Framework with third countries under the European Agenda on Migration (June 2016), p5, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_external_aspects_eam_towards_new_migration_ompact_en.pdf

²³ European Commission Progress Reports for candidate and potential candidate countries (November 2016), Chapter 24 ‘Justice, Freedom and Security’, available at: https://ec.europa.eu/neighbourhood-enlargement/countries/package_en

²⁴ Ibid (EU Progress Reports)

²⁵ European Asylum Support Office, news story: ‘EASO trains 13 participants from the Western Balkans and Turkey on Interviewing Vulnerable Persons in the Regional School of Public Administration in Montenegro’ (September 2017), available at: <https://www.easo.europa.eu/interviewing-vulnerable-persons-montenegro>

²⁶ European Asylum Support Office, news story: ‘EASO organises workshop on European Law relating to Asylum for Western Balkans Judges’, (October 2017), available at: <https://www.easo.europa.eu/workshop-eu-law-asylum-western-balkans>

²⁷ Ibid (Communication on the European Agenda on Migration), p13

2.4. Finding Paths for Legal Migration to the EU

In an effort to address its economic and demographic challenges, the EU is determined to advance opportunities for legal migration, thereby making Europe an attractive destination for regular migrants. One of the priorities of the EAM, therefore, is to introduce a clear and sustainable legal migration system which would reflect the EU interest and match the needs of its Member States' economies.

The EU is committed to attract talented individuals with its 'Horizon 2020' and 'Erasmus+' programmers. Through the WB Platform on Education and Training, the EU works closely with national administrations, education institutions and the civil society sector in WB6 to, inter alia, promote these research and training-focused programmers to educators, trainers and researchers from this region²⁸. In addition, the EC issued a proposal to make it easier for highly skilled migrants, including WB6 nationals, to live and work in the EU with a Blue Card²⁹.

At the same time, countries of origin should also benefit from the legal migration of their nationals. The EU recently reformed its legislative framework on payment services, allowing safer, cheaper and faster remittance transfers³⁰. This development will likely have a considerable effect on WB6' economies, as remittances are important source of income for many families relying financially on migrant workers³¹.

3. Conclusion and Next Steps

The European Agenda on Migration introduced a comprehensive approach addressing all aspects of migration based on four key areas for delivering an effective and sustainable EU migration policy: irregular migration, border management, asylum policy and legal migration. This briefing paper, compiled for the needs of the Migration, Asylum, Refugees Regional Initiative (MARRI) takes stock of the EU commitments and key actions laid out in the European Agenda on Migration and its State-of-Play reports, in view of their relevance to the Western Balkans region.

The Leaders' meeting, convened by the EC in October 2015, resulted in a concerted action by all involved actors within the EU and in the WB region. Unilateral decisions were replaced by coordinated measures along the Western Balkans route. The EU has allocated almost EUR 23 million as humanitarian aid to help refugees and migrants who are transiting through this region³². In addition, since summer 2015, the EU has allocated EUR 78 million through the

²⁸ European Commission, news story: "6th Meeting of the Western Balkans Platform", September 2017, available at: https://ec.europa.eu/education/events/20170927-6th-meeting-western-balkans-platform_en

²⁹ European Commission COM (2016) 378 final: "Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the conditions of entry and residence of third-country nationals for the purposes of highly skilled employment" (June 2016), available at: [http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2016/0378/COM_COM\(2016\)0378_EN.pdf](http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2016/0378/COM_COM(2016)0378_EN.pdf)

³⁰ European Commission, EU Directive (EU) 2015/2366, entered into force on 12 January 2016, available at: https://ec.europa.eu/info/law/payment-services-psd-2-directive-eu-2015-2366_en

³¹ Ibid (EU Progress Reports for Western Balkan countries)

³² European Commission, COM (2017) 558 final: "COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE

Instrument for Pre-accession Assistance (IPA) to support WB6 in managing migration flows at the border and on improving their reception capacity for migrants and refugees³³.

In June 2016, the European Commission proposed a new approach of cooperation and engagement with countries of origin and transit. This resulted in the European Migration Partnership Framework with a dual objective of “addressing the root causes of irregular migration through development cooperation whilst encouraging stronger cooperation by third countries on all aspects of migration, including the fight against smuggling and the acceptance of readmissions of nationals”³⁴.

In the future, the EU will continue to support WB6 to manage migration flows, control their borders, reform their asylum systems and promote legal migration pathways for their nationals. In this regard, the EC will provide targeted support for WB6 to develop migration statistics in line with the EU Acquis³⁵.

Frontex also plans to strengthen its support in this region by deploying teams on the territories of Macedonia and Serbia³⁶.

Last but not least, the EU Action Plan on the Integration of third-country nationals, set out in 2016, will make it easier for all migrants (including WB nationals) to integrate and contribute to the societies of EU Member States³⁷.

Certainly, migration will remain a very important issue for both EU Member States and WB6 for the years to come. Now is therefore the time for all actors involved in migration management in the EU and the WB region to step up their efforts to ensure regular, safe and orderly migration in Europe and the world.

COMMITTEE OF THE REGIONS on the Delivery of the European Agenda on Migration” (September 2017), p3, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170927_communication_on_the_delivery_of_the_eam_en.pdf

³³ Ibid (Communication on the Delivery of the European Migration Agenda), p3

³⁴ Ibid, p5

³⁵ Ibid (EU Progress Reports)

³⁶ Ibid (Communication on the Delivery of the European Agenda on Migration), p10

³⁷ European Commission, COM(2016) 377 final: “COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Action Plan on the integration of third country nationals” (June 2016), available at:

https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_action_plan_integration_third-country_nationals_en.pdf