



European Commission, DG Migration
& Home Affairs

Study on smuggling of migrants

Characteristics, responses and cooperation with third countries

Case Study 5: Greece – Former Yugoslav Republic of Macedonia – Serbia/Hungary

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1. Executive Summary

This case study has been developed in the framework of the EU-funded "Study on smuggling of migrants: characteristics, responses and cooperation with third countries". Five case studies served as an information collection tool to contribute to the data collection of the larger study, in order to provide detailed information on the phenomenon of migrant smuggling and policies to address it as occurring in particular countries or along particular route segments.

The rationale for the decision on case study countries and route segments covered has been made based on their relevance according to indicators such as the number of irregular migrants apprehended (particularly based on Frontex data), border type, modus operandi, migration route and relationship with third countries, following the requirements in line with the tender specifications for the Study.

In this case study, Greece was selected as the country of departure, with the Former Yugoslav Republic (FYR) of Macedonia and Serbia chosen as transit countries and Hungary as the country of first entry to the EU¹. This case study covers two EU Member States at the beginning and the end of the route and two non- EU Member States as the transit countries. It focuses on the Western Balkan land borders.

Methodological note

Research methodologies used included desk research, legal and policy analysis, qualitative research and interviews in specific countries along the selected route segments. Information has been collected over the course of the first half of 2015. Thus, the most recent dynamics in regard to flows and policies along the selected routes are not reflected in the case studies. Fieldwork was conducted on the ground in Greece, the FYR Macedonia and Hungary. Interviews were conducted with a variety of stakeholders, including migrants, smugglers, government representatives, international organisations, civil society organisations, and journalists. Interview partners were selected based on their key expertise on the topic of migrant smuggling for the countries selected and/or along this route.

OVERALL TRENDS

The Western Balkan route is the main route of irregular migration towards Hungary and is utilised by migrants from Syria, Afghanistan, Pakistan, Palestine, Eritrea, Iraq, and Somalia, as well as at the end of 2014 and the beginning of 2015 also migrants from Kosovo. The migrant flows passing through this region are of a mixed nature, consisting of asylum seekers and economic migrants. As the Western Balkans is a region bordering several EU Member States, it is largely a transit area for irregular migratory flows leading from Greece towards other Western European countries as final destinations.

Due to its geographical position, Greece is often the first port of entry to the EU, particularly for arrivals coming from Turkey. Greece is a critical transit site for migrants who wish to continue their journey to other EU Member states. As such, authorities assume migrants will attempt to exit illegally through either the sea border to Italy or the land border to the FYR Macedonia. From FYR Macedonia, migrants then transit primarily through Serbia on their way to Hungary.

Generally, Syrians prefer to reach Hungary and apply for asylum, aware they will not be deported but treated as *prima facie* refugees. They appear to be informed about this already prior to arrival to Greece, and likely have received such information while in Turkey. In contrast, Afghans, who have a higher rejection rate in their asylum applications, transit through Hungary quickly to reach Austria or Germany, where established Afghan migrant and family networks exist. The end of 2014 and the beginning of 2015 were marked by an unprecedented number of migrants from Kosovo illegally crossing the Serbian-Hungarian border and claiming asylum. Due to an international

¹ For this case study, Greece is chosen as the "country of departure" in order to study secondary movements along the Western Balkan region, even though it is often the first country of entry to the EU as well.

policing effort involving Hungary, Serbia, Kosovo, Germany and Austria, the numbers dropped significantly as of mid-February 2015. However, this trend was followed by strong irregular migration pressure in mid-2015 of migrants from Syria, Afghanistan, Pakistan, Iraq and other countries, reaching a peak in August 2015 with up to 3,241 apprehensions in one day (26 August). According to both Frontex and Hungarian statistics on illegal border crossings, between 2013 and (until July) 2015, between 83-89% of all detections took place along the Serbian-Hungarian land border. Various policies in the region towards irregular migrants in general and asylum seekers in particular have also had a significant impact on the number of arrivals to Hungary. Nonetheless, policies to curtail migrant smuggling has not reduced the demand for such services, but rather increased prices and risks for the migrants' journeys.

MODUS OPERANDI OF MIGRANT SMUGGLING OPERATIONS

Research for this case study has shown that Greece has emerged as a hub destination, where migrants may remain waiting for funds to be wired by family or work in the informal labour market to finance the next section of their journey. Interviews revealed that when apprehended further along the route and deported back to Greece, migrants do attempt to cross the border again. To avoid such possible return or deportation to Greece, migrants are also advised by smugglers to destroy their documents.

Crossing irregularly through the Western Balkans does not always demand the use of migrant smugglers, making this route option relatively cheaper as compared to other case studies. However, prices along this route vary according to types of transport, risk involved, amount of time taken, season and a host of other factors. However, the demand Syrians have placed on this route has reportedly driven prices up. Most migrants do not utilise "whole package" deals, and rather make the journey in a more step-by-step fashion. For example, for the Greece-FYR Macedonia route leg, the price can reportedly vary from 1500 EUR to 3000 EUR. For all legs along this route, prices may also include a pre-determined amount of attempts to cross the border segment, in case an attempt fails, based on negotiations between the smuggler and the migrant. The use of false documents by smugglers who run their business under false nationalities has also been reported on this route, more particularly in the FYR Macedonia, Serbia and in Hungary.

This route is not highly organised and migrant smugglers' networks are not necessarily connected. Rather, there is a very loose level of organisation, thus making it unlikely that migrant smuggling networks are connected to organised criminal networks working in other criminal fields. Migrant smuggling is described as a chain with links, that involve several participants on the route itself, including:

- ★ Top men/organisers: based in Turkey or Greece, who provide the transport and retain the majority of the money
- ★ Recruiters: can work for multiple smugglers and are different nationalities, or can be the smuggler themselves.
- ★ Drivers: can work on multiple routes, or for multiple smugglers.
- ★ Money collector (if not paid directly in cash)

Across the three case study countries, the modes of transport can vary, but migrant smuggling operations across the three countries consistently use the "green" border, or land border crossing between border crossing points, as the main mode of entry/exit. From Greece to the border with the FYR Macedonia, migrants either walk or take various forms of transportation, including taxis and public buses, or by being hidden in vehicles. This border is reportedly not particularly difficult to navigate across, so migrants may decide whether they move unassisted or with the help of smugglers. Indeed, migrants often first attempt to exit without the help of a smuggler, and only engage smuggling services if they are unsuccessful or to reduce the risk of being apprehended. Migrants crossing the border without assistance may use GPS technology. Smugglers offer different services on this section of the route. Some limit their operations to specific border areas, while others focus on specific modes of transport and others may offer a wide range of services and routes. For this section, the smugglers identified are primarily Syrians, Afghanis, Pakistanis and Kurds, while recruiters tend to be of the same nationality as the migrants.

In the FYR Macedonia, some migrants have contacted smugglers ahead of time, who will transport them to the Serbian border. Others cross the country on their own, walking, biking or using public transport to the village of Lojane, near the border with Serbia. Until June 2015, moving through the FYR Macedonia was shaped by walks following the train tracks and an increase in fatalities involving trains was recorded. In response to this, the

government adopted changes in the Law on Asylum and Temporary Protection in June 2015, whereby migrants who apply for asylum are not detained and can travel legally through the country, which deters them from following the train tracks. In Lojane, migrants may choose to contact a smuggler to assist them to cross the border into Serbia and eventually to Hungary. This border section is reported to be particularly porous, and thus the illegal crossing is considered relatively easy.

Similarly, through Serbia migrants generally use public transportation or taxi services. Migrants are transported from the border with the FYR Macedonia or from asylum reception centres in Serbia to the capital Belgrade, and from there onwards to the border with Hungary, which is also considered fairly porous. If a smuggling service is utilised, migrants usually cross with a guide. Legal and practical aspects of asylum and reception systems play an important part in strategies along this route. Engaging with the asylum system is the only option for obtaining a temporary residence status and for gaining access to basic supplies, health care and housing. While on a temporary residence status, migrants may continue their journey towards Hungary. For example, the FYR Macedonia has received an increase in asylum claims, with 95% of the claimants leaving the country before the claim is processed. A similar situation is occurring in Serbia and Hungary, with migrants claiming asylum if apprehended and moving on before their international protection needs are assessed. In Hungary, in the last 2 months of 2014, due to the lack of capacity to detain migrants, migrants were issued with a letter of intent to claim asylum that entitled them to free public transport in the country to go to the designated registration/reception centre, but in practice migrants absconded further afield. Asylum centres and border villages serve as hubs along this route. Reception centres serve as a key location for acquiring information about routes and costs, and some smugglers use them as a place of recruitment. Facebook and other social media also provide information on how to cross borders, often provided by migrants who have successfully crossed.

POLICY RESPONSES: Institutional framework and cooperation

Policy responses along this route have impacted both the number of arrivals as well as the way that migrants move towards their intended final destination. Moreover, cooperative frameworks and measures stand out as key policy responses in the region.

A key international framework that is central to anti-smuggling policies is the UN Protocol against the Smuggling of Migrants, a supplementary protocol to the UN Convention against Transnational Organized Crime. All countries along this route have ratified this protocol and transposed it into law.

In terms of key stakeholders, across all case study countries, the Ministry of Interior serves as the primary government agency responsible for relevant policy on migrant smuggling, with various sectors or units within the Ministry dealing with more specific operational or policy aspects of the phenomenon. The Ministry of Justice for all countries deals with the prosecution of migrant smuggling offences and criminal procedures. In Greece, the key stakeholders involved in addressing migrant smuggling operations are the Hellenic Police and Hellenic Coast guard, the main law enforcement agencies who investigate smuggling. Frontex is also considered an important stakeholder in terms of its operations in the region, currently undertaking the JOP Poseidon Land. In FYR Macedonia, within the Ministry of Internal Affairs, the sectors and units that deal with cases of migrant smuggling include: the sector for Border Affairs and Migration, the Sector for Combatting Organised Crime, the Border Police, the section for asylum and the Reception Centre for Foreigners. The FYR Macedonia also has a current National Strategy for Combating Trafficking in Human Beings and Illegal Migration and an accordant Action Plan (2013-2016), which outlines measures and activities to be taken by relevant institutions in addressing migrant smuggling operations. This Action Plan is the third consecutive strategic document developed based on assessed needs in the field, showing continuity and experience with this topic over a longer period of time.

For Hungary, the National Police is in charge of strategic or policy considerations in terms of preparing legislation and drafting policy documents, alien policing, (forced) returns of irregular migrants and border control, and the National Bureau of Investigation (NBI), the investigative entity, subordinate to Hungarian National Police and the Ministry of Interior. The Hungarian regional police have also been highlighted as having an important role in operational responses to migrant smuggling. Along the border with Serbia, regional police have provided information training as a preventative measure to bus and taxi drivers, civil guards and field guards located in border areas on procedures they need to follow in instances when they suspect irregular migration and human smuggling activities.

In terms of policy measures implemented across the three countries, cross-border cooperation, readmission agreements and inter-governmental dialogues have been particularly highlighted by the research.

In fact, the cooperation mechanisms established between the countries in this case study, particularly between FYR Macedonia, Serbia and Hungary, are manifold. Border police cooperation is the most advanced, including joint patrols and investigation teams, joint control centres, as well as information exchange, joint threat analysis and operational meetings (e.g. through the Migration, Asylum and Refugee Regional Initiative and the Police Cooperation Convention for Southeast Europe). Protocol agreements and Memoranda of Understanding have been highlighted as an important means to establish such joint patrols, joint centres and joint returns, as well as EU instruments supporting joint projects on the border (e.g. the IPA Cross-Border Cooperation Programmes). Such police cooperation mechanisms have also been considered significant in addressing migrant smuggling employed for secondary movements, particularly between Hungary and other EU Member States (e.g. Austria, Germany, Slovakia).

Readmission agreements have been noted as a particular measure to address irregular migration in general, and all case study countries have signed such agreements with a number of countries of origin of migrants, and for FYRoM with a number of EU Member States and with the EU. For the FYR Macedonia, returns to EU countries would be conducted in the framework of the EU-FYR Macedonia readmission agreement. However, interviews in the FYR Macedonia noted several obstacles in its implementation with regard to readmission with Greece due to a lack of a protocol for implementation. Moreover, the research has shown that smugglers have adjusted their services and provide information to migrants to counteract a potential return through a readmission agreement, e.g. by destroying any document they have that indicates that they have temporary residence in Greece.

Finally, in terms of inter-governmental dialogues, those focused on irregular migration in general or migrant smuggling more specifically were highlighted in terms of cooperative frameworks. This includes in particular the Budapest Process and the Mediterranean Transit Migration Dialogue, which included specific topics or workshops focused on the phenomenon.

2. Introduction

2.1 The case study purpose

This case study has been developed in the framework of the EU-funded “Study on smuggling of migrants: characteristics, responses and cooperation with third countries”, conducted by Optimity Advisors, the European Council on Refugees and Exiles, and the International Centre for Migration Policy Development.

The main object of the larger study is to identify and outline international developments and structures in the area of migrant smuggling, as well as existing ways to facilitate intergovernmental exchange, and to support the development and implementation of co-operation initiatives.

More specifically the study seeks to:

- ★ List and analyse policies, programmes and operational responses implemented by selected EU Member States and third countries aimed to fight against, reduce and prevent migrant smuggling to the EU;
- ★ Map the characteristics of the phenomenon to establish a comparative picture of its scale, characteristics, trends and patterns. Based on this the study team can draw comparative assessments of practices in various parts of the world where smuggling of migrants occurs.
- ★ Draw conclusions based on data collection and case study outcomes.

In this regard, five case studies **served as an information collection tool** to contribute to the data collection of the larger study. Their more specific aim was to provide detailed information on the phenomenon of migrant² smuggling and policies to address it as occurring in particular countries or along particular route segments, through the use of desk research, legal and policy analysis, qualitative research and interviews in specific countries along the selected route segments. Data collection has focused on dynamics of migrant smuggling operations and migrant smuggling routes, as well as existing policies and measures to prevent and tackle migrant smuggling.

Across all case studies, information has been collected over the course of the first half of 2015 for countries of departure (i.e. a country from which migrants leave), countries of transit and countries of first entry to the EU³. The most recent dynamics in regard to flows and policies along the selected routes are thus not reflected in the case studies. Despite the choice of specific countries, the case studies should not be understood in terms of a singular route logic. Rather, this approach is informed by the insight that migrant smuggling more often than not involves loosely connected networks of smugglers/facilitators, distinct legs of a wider journey, and in geographical terms hubs in transit areas connecting countries of origin/departure and destination/first entry into the EU.

This report is thus one of the five case studies developed as one method contributing to the Study’s final comparative report. The five case studies are:

- ★ Case Study 1: Syria/Lebanon – Egypt – Italy
- ★ Case Study 2: Ethiopia – Libya – Malta/Italy
- ★ Case Study 3: Pakistan – Turkey – Greece
- ★ Case Study 4: Nigeria – Turkey – Bulgaria
- ★ Case Study 5: Greece – Former Yugoslav Republic of Macedonia – Hungary.

The rationale for the decision on case study countries and route segments covered has been made based on their relevance according to indicators such as the number of irregular migrants apprehended (particularly based on

² The term “migrant” in these case studies is used to refer to all migrants including economic migrants, asylum seekers and refugees traveling in mixed migration flows. When the research refers to specific flows of asylum seekers and refugees those terms will be used.

³ For Case Study 5 (Greece – Former Yugoslav Republic of Macedonia – Serbia/Hungary), Greece is chosen as the “country of departure” in order to study secondary movements along the Western Balkan region, even though it is often the first country of entry to the EU as well.

Frontex data), border type, modus operandi, migration route and relationship with third countries, following the requirements in line with the tender specifications for the Study.

For this case study, **Greece** has been chosen as the country of departure, with the **Former Yugoslav Republic of Macedonia** chosen as a transit country, and **Hungary** chosen as the country of entry into the EU⁴. The case study covers the land route from Greece, through the Former Yugoslav Republic of Macedonia, to Hungary via Serbia, focusing on the Western Balkan land border route.

The findings of this case study are organized into four chapters, with additional appendices that follow.

The introductory chapter is divided into four parts: the basic background on the purpose of this case study in relation to the broader Study; a basic and general description of the case study content as an introduction to this specific case study; the methodology used and challenges in conducting empirical work in each of the case study countries; and the background context on migrant smuggling for each of the countries covered in the case study, including broader patterns and basic policy response information.

The second chapter provides a **description of the characteristics of migrant smuggling operations** on each of the route segments covered. It focuses on the numerical scope, patterns and dynamics of migrant smuggling in each country and on the more qualitative characteristics of the phenomenon from the supply and demand side. The analysis includes descriptions of the modus operandi, the financial aspects of the operations, the relationship between smugglers and smuggled migrants and the risks and dangers migrants face during the smuggling journey.

The policy chapter focuses on the frameworks in place both at an international and regional level, paying particular attention to the engagement and participation in bilateral and multi-lateral cooperation dialogues and initiatives aimed at tackling migrant smuggling between the countries on the route segments and the EU. The chapter also collects information on institutional structures, migration management legislation, policies and programmes developed by each case study country relevant to addressing migrant smuggling.

Conclusions are based on both the characteristics of smuggling operations along the route segments and policy responses in the case study countries. This final chapter is followed by additional information/annexes, including a full list of interviews conducted (Section VI provides details on interviews as per country and interview code used, with personal details removed as per requests of anonymity of interviewees) and the list of references.

2.2 General introduction to the case study

The present report follows the irregular migratory journey from Greece along the Western Balkan Route towards Hungary; each leg of the journey is covered, as well as smuggling operations and how they are currently evolving, policies in place and cooperative frameworks. The sections follow the logic of the route, which is the logic also of the migrants who arrive in Greece, and spend a considerable amount of time often deciding which route to follow, and at what cost and risk. Thus, starting from the country of departure, which is also usually the first point of entry to the EU, the report brings together each leg of the journey with its distinct but also common features. Throughout the report it becomes clear that though policies, measures and institutions may vary and cooperation between states diverges, the smuggling operations in essence are similar; they adapt to their terrain and the idiosyncrasies of each country but fundamentally their function, role, and purpose is the same.

⁴ For this case study, Greece is chosen as the “country of departure” in order to study secondary movements along the Western Balkan region, even though it is often the first country of entry to the EU as well.

Figure 1: General map of the Western Balkan region.



Source: Frontex Western Balkans Annual Risk Analysis 2014.

The Western Balkan route is the main route of irregular migration towards Hungary and it is especially relevant for migrants from Syria, Afghanistan, Pakistan, Palestine, Eritrea, Pakistan, Iraq, Somalia and Western Balkan States.⁵ It originates in Turkey, continues to Greece, heads through the Former Yugoslav Republic of Macedonia and Serbia to Hungary and leads to Western European countries. Alternative, less common, routes, as noted during the research, are Greece-Albania-Montenegro-Serbia, Greece-Bulgaria-Serbia⁶ and Turkey-Bulgaria-Serbia⁷. Currently, the main countries of origin of smuggled migrants are Afghanistan, Pakistan, and Syria.⁸ According to the 2015 Risk Analysis Report of Frontex: "As a region surrounded by EU Member States, the Western Balkans continued to be largely a transit area for irregular migratory flows between different EU Member States and Schengen Associated Countries."⁹

⁵ Frontex (2015), Annual Risk Analysis 2015. <http://frontex.europa.eu/assets/Publications/Risk/Analysis/Annual/Risk/Analysis/2014.pdf>, Accessed 21 April 2015.

⁶ HU/M/NG/3, HU/M/SD/4, HU/M/SY/6

⁷ HU/A/2. More information on the route from Turkey to Bulgaria is included in Case Study 4.

⁸ HU/A/2

⁹ Frontex (2015), Annual Risk Analysis 2015. http://frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2015.pdf

In the same report, it is noted that the “Greece/the former Yugoslav Republic of Macedonia/Serbia/Hungary remained the main sub-route during 2014 as it provides more advantages such as lower transit time due to the presence of a more developed road infrastructure (mainly the Pan-European Corridor X), fewer border sections to cross and also direct access to the Schengen area.” Figure 1 provides a mapping of the borders, main border crossing points along the route, and the Pan-European Transport Corridor X.

2.3 Methodology

The research for all five case studies included desk research, legal and policy analysis, and interviews. The following sections detail the methodology used, particularly with regard to interviews, information on fieldwork, as well as challenges in conducting empirical work in each of the case study countries. Qualitative research aims at collecting a broad spectrum of examples, insights and assessments from different point of views which could otherwise not be generated. Every expert respondent provides a particular point of view, background, experience and interpretations.

Interviews for this study were conducted with persons with diverse backgrounds, including public authorities, migrants, migrant smugglers, and other stakeholders, all with specific inside knowledge and expertise on the topic of human smuggling. While experts are able to distance themselves from the subject in question, affected persons can convey their very personal and subjective perspective of a process or a situation. In addition personal experiences raise new aspects to the research topic and can shed light on aspects otherwise underrepresented. Thus, information is complementary rather than additive. Moreover, through the use of desk research and legal and policy analysis, the research was also able to verify information gleaned from other sources.

Methodology – Greece

Research in Greece took place from the 10 February to end of April 2015 in Athens and Thessaloniki and utilized a mixture of desk and primary research. Athens was chosen for the obvious reason of being the main destination point upon arrival of irregular migrants; like most capitals along transit routes, it functioned as a hub for migrants who contacted family members, friends and relatives, but also smugglers to continue their journey onwards. Thessaloniki was chosen due to its location; it is the main city before the border with FYRoM, and the smugglers interviewed were located there. Relevant literature was analysed, including the new Code for Migration, which incorporates penalties for smuggling. However, the majority of data were collected through the primary interviews with migrants from Afghanistan (3) and Syria (5) and two smugglers, an Afghan and a Syrian (see Section VI for details). In addition, seven interviews were conducted with authorities, including the Ministry of Foreign Affairs, the asylum service, law enforcement agencies, Frontex and a public prosecutor’s office. Three interviews were also conducted with expert stakeholders: a journalist, an international organisation and an international NGO. The interviews with officials largely corroborate the findings from the migrant interviews.

Regarding migrant interviews, early on from the literature (mainly Frontex reports) it became clear that the main nationalities undertaking the crossing via this route are Afghans, Syrians, Eritreans and Pakistanis. The focus thus was placed on Afghans and Syrians, within the particular route although efforts were made to approach Eritreans and Pakistanis, largely unsuccessful.

Since Greece was used in two case studies in the study, both as an entry and exit site, a total of 8 interviews with migrants took place, Afghans and Syrians, where in many cases, they had both entered via Turkey and attempted exit to the Former Yugoslav Republic of Macedonia or at the time of the interview they were contemplating the land border route and examining costs and options available. Thus, any corresponding information from those interviews was utilised in the present report. Though the sample may appear limited, because migrants were identified on the basis of the route they pursued, it is in fact sufficient to triangulate in the present context (i.e. verify) accounts.

Additionally two (2) interviews with participants in smuggling operations were conducted. Site selection strategy¹⁰ could not be used to contact smugglers since the security risks were high. However Through "snowball sampling" utilising personal contacts, eventually two interviews were arranged via a middle-man, who was not part or involved in any way with smuggling operations. The persons interviewed for smuggling activities were from Afghanistan and Syria. Though they covered the sea and land border respectively, they both had knowledge of operations, payments and modus operandi of the smugglers in Greece and, similarly to the interviews with migrants, relevant information were used for the corresponding routes. One was arrested and convicted of smuggling and the other appears to have the function of an intermediary. With few exceptions they described smuggling operations, modus operandi, prices and recruitment in similar (if not the same at times) manner. Their information were largely also confirmed in the migrant and law enforcement interviews. Smugglers are incredibly difficult to access, especially by researchers since there is always suspicion of potential collaboration with the police. Migrants are also afraid of naming them or putting researchers in touch with them. Thus, securing two interviews is rare and extremely difficult and interviewees agreed to be interviewed following a series of precautions undertaken.

Methodology – Former Yugoslav Republic of Macedonia

The research findings for the Former Yugoslav Republic of Macedonia are based on the analysis of the information gathered through desk research, consultations of the relevant legislative and policy documents, meetings with the competent stakeholders in Former Yugoslav Republic of Macedonia dealing with issues related to migrant smuggling as well as 16 in-depth qualitative interviews, conducted between 12 March 2015 and 10 June 2015. These interviews included five with government representatives, and four with representatives from international organisations working on the issue and journalists reporting on migrant smuggling in the region. Further, five interviews were conducted with migrants from Syria and Iraq and two interviews were conducted with smugglers (nationals of Former Yugoslav Republic of Macedonia). Additional statistical data about the number of illegal crossings in the country as well as the number of the apprehended migrants for the period of 2009-2015 (until end of February) was received from the Ministry of Internal Affairs and integrated into the study.

The desk research consisted of reviewing and analysing the existing laws, regulations, policy documents, reports and the available literature relevant to migrant smuggling in the Former Yugoslav Republic of Macedonia. An overview was compiled of the existing legal and institutional framework as well as the policy responses towards the migrant smuggling phenomenon. In addition, articles of investigative journalists reporting on migrant smuggling in the region have been considered. Interviews with migrants accommodated in the Reception Centre for Foreigners in Skopje were requested during the research phase and carried out during two visits to the Centre on 20 March 2015 and on 26 May 2015. The interviews were conducted in the office of the Manager of the Reception Centre in Skopje with the occasional presence of a police inspector from the Centre. Despite the occasional presence of the police inspector, this is not believed to have affected the quality of the interviews. All the migrant interviews were carried out in English. Considering the difficulties of the researcher to find and meet a smuggler during the field research, an official request to conduct interviews with convicted smugglers was sent to the Directorate for Execution of Sanctions within the Former Yugoslav Republic of Macedonia Ministry of Justice. The researcher received an official positive response from the Directorate in June 2015 and two interviews with convicted smugglers were conducted on 10 June 2015 in Idrizovo prison in Skopje.

Methodology – Hungary

The field research in Hungary was primarily conducted during the week of 9 March 2015, with one additional interview with an expert stakeholder in Serbia conducted by telephone 15 April 2015. Given the time and logistical constraints, sampling was partly limited by giving priority to interviewing those relevant stakeholders who could confirm their

¹⁰ This method is a means to establish trust by frequenting sites where migrants or smugglers socialise or meet. See Janine Dahinden & Denise Efionayi-Mäder (2009), Challenges and Strategies in Empirical Fieldwork with Asylum Seekers and Migrant Sex Workers, In: Else van Liempt & Veronika Bilger (eds), The Ethics of Migration Research Methodology. Dealing with Vulnerable Immigrants. Brighton. Portland: Sussex Academic Press, pp. 98-138.

availability within the time period designated for the field research on a short notice, thus limiting the possibility to include interviews with judiciary and convicted smugglers. However, valuable information was successfully gathered from a variety of experts from relevant organisations this way and the sampling was suitable for the research. Overall, three interviews with relevant state authorities, three with other expert stakeholders and eleven migrant interviews were conducted in Hungary. Two sites were initially identified for interviewing migrants: the asylum reception centre in Bicske and the temporary detention facility in Szeged. The latter was eventually considered not feasible, due to the lack of possibility to ensure privacy during the interviews. Ten migrant interviews were consequently conducted at the reception centre in Bicske. These interviews were conducted in a case worker's office and a meeting room that was put at disposal for this purpose. Remarks by one migrant from Afghanistan, who was the interpreter during an interview with another migrant from Pakistan, but did not want to conduct a full interview, were included with his written consent. Remarks from informal conversations with other stakeholders and migrants were not protocolled but were taken into account to verify and underline the already gathered information.

Given the time constraints for extended fieldwork and in a location where migrants are still *en route* and smugglers are possibly present, it was not feasible to establish contact with smugglers. An attempt to contact a mid-level smuggler through personal contacts failed due to a lack of opportunity (the smuggler contacted was arrested before an interview could be conducted), and while others have been contacted through the same personal contact, for lack of trust and financial incentive they refused to speak about the matter.

Another trend overshadowed the significance of this studied route at the time of the field research, and contributed slightly to methodological challenges in the interviews with state authorities. Namely, in January-February 2015, just before the field trip took place, Hungary was experiencing unprecedented flows of migrants from Kosovo. Against this background, it was not always easy for interview subjects to separate the information relating only to this recent trend from those relevant to the case study route.

2.4 General Background on relevant issues regarding migrant smuggling for each of the case study countries

2.4.1 General Background Greece

Greece has emerged in recent years as a critical transit site, for irregular migrants and asylum seekers who wish to continue their journey to other European Union Member States. Thus, due to its geographical location, it acts as a first point of entry to the European Union for arrivals primarily originating from Turkey (see also Case Study 3 for more information) who then proceed to transit via two main routes: via the ports of Patras and Igoumenista to Italy and via the land border through the Western Balkan Route, the latter of which is the focus of this case study.

Flows over the last five years have fluctuated primarily between the land and sea border as regards entry and exit, with the land border route dominating entry to the country from 2010 until 2012 and the maritime border once more at the forefront in the last two years (See Table 1).

Table 1: Apprehensions for illegal entry and stay in Greece by area (2009-2014)

	2009	2010	2011	2012	2013	2014
Greek-Albanian Border ¹¹	38.164	33.979	11.743	10.927	10.413	9.290
Greek-FYROM Border	2.355	1.589	1.003	1.168	1.041	1.216
Greek-Bulgarian Border	1.258	983	636	365	505	780
Greek-Turkish land Border	8.787	47.088	54.974	30.433	1.122	1.914
Greek-Turkish sea Border	27.685	6.204	814	3.610	2.525	42.651
Crete	2.859	2.444	1.640	2.834	2.557	3.093
Rest of the country	45.037	40.237	29.372	31.151	16.253	18.219
Total	126.145	132.524	99.368	76.878	34.416	77.163

Source: data by the Hellenic Police¹²

Note: FYRoM stands for Former Yugoslav Republic of Macedonia

The land border, including the border with the Former Yugoslav Republic of Macedonia, Albania, and Bulgaria, is under the purview of the Hellenic Police that is responsible for detecting irregular entry and/or exit via the land border and the airport.

The Western Balkan route is a relatively recent development, largely attributed to two factors: On the one hand, border controls have increased significantly in the last three years in the ports of Patras and Igoumenitsa, making irregular exit towards Italy difficult, expensive and risky. Joint Patrols by the Hellenic Coastguard and Frontex as well as increased patrols on the Italian side, often result in apprehension of vessels as well as detection of migrants prior to departure. On the other hand, the land border route to the Former Yugoslav Republic of Macedonia can (and often does) take place without organisation, support or accompaniment from a smugglers, which reduces significantly the cost incurred by migrants for that leg of the journey.¹³ The Western Balkan route appears in the report of Operation PERKUNA by Frontex (2013¹⁴). The report identified specific routes for different nationalities utilising the Western Balkan route, including Syrians, Afghans and Pakistanis. Recent media reports note also the increased presence of West Africans.¹⁵

Migrant smuggling in Greece is defined and approached (legally and operationally) as a criminal activity, for both entry and exit. Greece has transposed all of the Palermo Protocols¹⁶ in its national legislation, though it has retained

¹¹ The data on Albanian nationals refer to apprehension either at the border or in country for irregular entry and/or residence. Despite the visa waiver implemented, Albanians continue albeit in reduced numbers to enter and exit Greece irregularly. For further information see Gemi,E (2015), "The Incomplete Trajectory of Albanian Migration in Greece". IRMA Final Paper, Athens: ELIAMEP.

¹² <http://www.astynomia.gr/>. Greece does not distinguish between smuggled migrants and irregular apprehensions. Once rescued or apprehended at the border areas, migrants are registered as irregular entries/stays. Greece only maintains separate data for apprehended smugglers. The usefulness of the above data is that it shows the flows and specifically for the Greek-Turkish land and sea border entry takes place at an overwhelming rate through facilitation by smugglers (the usage of the word facilitation here is purposeful; smugglers do not usually accompany the migrants except in cases where the transport means is expensive and they cannot afford to lose it. Otherwise they transport and guide migrants near the border, allow them to cross on their own and then they are either met by members of the smuggling ring or seek to find a new smuggler to continue their journey)

¹³ The interviews conducted with the migrants in the Former Yugoslav Republic of Macedonia show that smugglers usually wait for migrants right after they cross the border. Interviews in Greece showed (and this is discussed in the modus operandi) that migrants tend to attempt the border crossing at least once without paying smugglers, and if arrested or fail to cross the border they then reach out to smugglers for the crossing. An alternative method is to cross unaccompanied and without payment and then seek out the services of smugglers who tend to wait on the Former Yugoslav Republic of Macedonia side of the border to offer their services for the continuation of the journey.

¹⁴ Council of the European Union (2013) *Final Report on Operation Perkunas*. <http://www.statewatch.org/news/2014/mar/eu-council-operation-perkunas-16045-13.pdf>

¹⁵ The Guardian. 6 April 2015. *Fear, Fatigue and Separation: a journey with migrants willing to risk everything*. <http://www.theguardian.com/global-development/2015/apr/06/fear-fatigue-separation-migrants-western-balkans-west-africans-eu-back-door?CMP=fb/gu>

¹⁶ [Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children](#); the [Protocol against the Smuggling of Migrants by Land, Sea and Air](#) and the [Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition](#)

the right to apply different penalties, higher than what the Protocols recommend, for convicted migrant smugglers and human traffickers.

Migrants are also penalised, however the penalty is a monetary fine that the public prosecutor usually waves in recognition of their inability to meet the financial demand. Migrants, until recently, if detected upon entry and or exit, were detained and depending on the existing capacity of detention facilities, were placed in detention for indeterminable period of time (detention ranged in the last five years from few hours to months, depending on capacity of facilities, as well as the migrants' nationality and level of vulnerability). Women and children usually were not placed in detention.

All interviewees acknowledged that the main reason for using services of smugglers is the absence of legal means of entry to the European Union, irrelevant of one's reasons for migrating, i.e. smuggling is a necessity for economic migrants, asylum seekers and forced migrants alike because they consider there to be a lack of legal pathways to the EU, including for protection. Again, the linkage between legal pathways of migration and smuggling has been repeatedly stressed in the literature. In one of the few researches focusing on Greece undertaken by Antonopoulos and Winterdyk (2006)¹⁷, they argue that smuggling is largely a by-product of the strict legal framework of migration in Greece, which does not leave the possibility for legal entry nor exit to and from the country. In other words, the absence of legal avenues increases the demand for smugglers; especially in a country like Greece that has gradually shifted from a destination to a transit country. The findings of the present research confirm this argument.

The research undertaken in the framework of this specific project showed that Greece is functioning as a hub for the organisation and continuation of the journey, as well as a critical site for the setup of smuggling operations and business. In fact, entry and exit are treated as interconnected vessels, where entry essentially feeds into the exit. Thus, institutionally there is close and continuous cooperation between the Hellenic Coastguard that handles search and rescue and apprehension at the maritime borders (main entry point since 2013) and the Hellenic Police that is responsible for the internal movement and exit from the land border. Frontex retains a continuous, albeit reduced, presence in Greece (particularly in terms of human resources). The system has been strengthened through the setup of the First Reception Service that is responsible for screening and early identification (and vulnerability) of new arrivals and a functioning asylum service. However, the overwhelming majority of arrivals that enter and will likely seek to transit from Greece are funnelled through Turkey; this remains also the main third country with which Greece seeks cooperation (see Case Study 3 for more information).

Greece signed the Readmission Protocol with Turkey in 2002. Though interviewees referred to a better level of collaboration as well as cases where this exchange has resulted in apprehension of smugglers, Turkey remains the primary point of exit for migrants and organisational basis of smugglers for the leg "Turkey-Greece". Such level of cooperation however, does not exist as far as current research has shown, with the authorities in the Former Yugoslav Republic of Macedonia, which reportedly makes difficult to manage the land border route.¹⁸ The Former Yugoslav Republic of Macedonia authorities and stakeholders, as elaborated in the Policy Responses chapter of this study, confirm that there is no cross border cooperation established between the police authorities in both countries¹⁹, although there have been such initiatives in the past. However, the interviewees claim that there is an improvement regarding the cooperation related to readmission cases between the Former Yugoslav Republic of Macedonia and Greece.²⁰

2.4.2 General Background the Former Yugoslav Republic of Macedonia

Upon exit from Greece, the most common entry point and thus immediate country of transit is the Former Yugoslav Republic of Macedonia. As a result of its strategic geopolitical location (being a part of the Balkan region and neighbouring two European Union Member States, namely Greece and Bulgaria), in the past few years the Former Yugoslav Republic of Macedonia has become an important hotspot of the main migration routes, much of which is of

¹⁷ Antonopoulos, G. A., & Winterdyk, J. (2006). The smuggling of migrants in Greece: an examination of its social organisation. *European Journal of Criminology*, 3(4), 439–461.

¹⁸ This was also confirmed in the answers of the interviews conducted with the Former Yugoslav Republic of Macedonia's authorities.

¹⁹ MK/A/4 and MK/IT/1.

²⁰ MK/A/4 and MK/A/5.

an irregular nature, towards EU countries. According to the Resolution of Migration Policy (2015-2020),²¹ an increasing number of migrants from Afghanistan, Pakistan, Palestine, Syria, Somalia and North African countries arrive from Turkey via Greece and transit through the country. Irregular migrants intend to pass through the country and to continue to Serbia and Hungary in order to get to their final destination, western European countries.

Until 2011, most of the detected irregular migrants were Albanian nationals residing irregularly in the Former Yugoslav Republic of Macedonia and attempting to enter and stay in Greece unauthorised in order to work seasonally (See Annex). During that period, the number of illegal border crossings by citizens of African or Asian countries was insignificant and the method of crossing the border was neither organised nor supported.²² The visa liberalisation with the EU Schengen states that was introduced in 2009 and expanded in 2010,²³ led to a significant increase in the flow of people through the Western Balkans to the Member States of the European Union, as will be further discussed in the chapter on Policy Responses. Aside from the increased number of persons entering the country for business or other purposes, "an increase of the number of illegal crossing of the state border and the abuse of the rights of asylum was detected."²⁴

The irregular migration trends, according to the Resolution of the Migration Policy (2015-2020), have significantly changed in the period of 2011-2014. Primarily as a result of the political crisis following the "Arab Spring", as well as the continued turmoil in Afghanistan, Iraq and Syria, a substantial change in the number of irregular migrants, their gender, age, nationality, as well as the reason for migration has been noted by the Macedonian authorities.²⁵ The number of nationals of African and Asian countries has begun to rise consistently, with many falling within the scope of the refugee category (See Annex). The reasons for irregular migration were no longer exclusively of economic character. The decision for migrating, as stated by migrants, was taken mainly as a result of life-threatening situations, security risks and violence caused by the political crises in the countries of origin,²⁶ as well as the desire for a better life²⁷. Most of the migrants acknowledge that they have family members, close relatives or friends who have managed to arrive in western European countries. They hope that those relations will help them establish their "new life."²⁸

As of 2012, a growing trend of illegal border crossings by migrants originating from African and Asian countries has been documented by the Former Yugoslav Republic of Macedonia authorities as shown in Table 2 below. The 2014 Frontex Risk Analysis for Western Balkans notes that compared to 2012, "significant differences have emerged in terms of countries of origin – there is a sharp decline of migrants from Afghanistan (-44%), North Africa (-36%) and Somalia (-58%) and an unprecedented increase of detected West Africans (+1 316%) and Syrians (+84%)."²⁹ The data provided for the purposes of this study by the Sector for Border Affairs and Migration within the Ministry of Internal Affairs regarding the number of apprehended irregular migrants aiming to enter the Former Yugoslav Republic of Macedonia show that the entries from Greece have been consistently higher than via other borders as of 2012.

²¹ Resolution of the Migration Policy of the R. Macedonia (2015-2020), 2014, Official Gazzete of R. Macedonia, 8/2015.

²² This has been confirmed by the research in Greece, where interviewees explained that a significant number of migrants attempt to undertake the border crossing at least once without a smuggler.

²³ The visa liberalization has been introduced in 2009 for the Former Yugoslav Republic of Macedonia, Serbia and Montenegro, and in 2010 for Albania and Bosnia and Herzegovina.

²⁴ Lembovska, M. (2013), Police cooperation in the field of combating illegal migration and human smuggling

²⁵ Resolution of the Migration Policy of the R. Macedonia (2015-2020), 2014, Official Gazzete of R. Macedonia, 8/2015

²⁶ MK/M/SY/1

²⁷ MK/M/IQ/1

²⁸ MK/M/SY/1

²⁹ FRONTEX, *Western Balkans Annual Risk Analysis 2014*, p.15. http://frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2014.pdf, Accessed 02 April 2015

Table 2: Number of apprehended irregular migrants aiming to enter the Former Yugoslav Republic of Macedonia (2009–February 2015).

Entry from:	2009	2010	2011	2012	2013	2014	Jan-Feb 2015
Greece	62	71	31	44	327	122	40
Albania	106	130	48	32	68	114	/
Serbia	17	14	8	10	17	15	3
Bulgaria	/	1	/	/	/	1	/
Kosovo	54	42	23	54	30	23	4
Total	239	258	110	140	442	275	47

Source: Sector for Border Affairs and Migration, Ministry of internal Affairs of the Former Yugoslav Republic of Macedonia.

According to the same source, the total number of migrants attempting to depart the Former Yugoslav Republic of Macedonia irregularly has slightly increased in 2014, compared to the period of 2011–2013. However, this increased number is still lower than the number of apprehended irregular migrants attempting to depart the Former Yugoslav Republic of Macedonia in 2009–2010, see Table 3.

Table 3: Number of the apprehended irregular migrants aiming to leave the Former Yugoslav Republic of Macedonia (2009–February 2015)

Exit to the border towards	2009	2010	2011	2012	2013	2014	Jan-Feb 2015
Greece	791	412	45	31	60	113	36
Albania	30	43	34	46	32	69	5
Serbia	20	13	6	18	22	11	22
Bulgaria	7	10	/	1	12	5	3
Kosovo	24	30	14	15	18	43	5
Total	872	508	99	111	144	241	71

Sector for Border Affairs and Migration, Ministry of internal Affairs of the Former Yugoslav Republic of Macedonia.

The Former Yugoslav Republic of Macedonia is a signatory to the Palermo Protocols and has harmonised its criminal law in accordance with international standards and introduced penalties for violators. The Ministry of Internal Affairs³⁰ defines smuggling of migrants as a criminal activity of providing illegal entry to a foreign or non-resident person to the territory of the country in order to directly or indirectly acquire financial or other material benefit. This same activity is defined in the Article 418(b) of the Criminal Code:

- (1) One who, using force or serious threats of violence, with kidnapping or fraud, with misuse of his/her official position or using of the powerlessness of others to illegally transfer migrants through the state

³⁰ MK/A/2

border, as well as one that produces, purchases or owns fake passports with such intention, shall be sentenced with imprisonment of at least four years.

- (2) One that engages, transports, transfers, buys, sells, hides or accepts migrants shall be sentenced with imprisonment of one to five years.
- (3) If during the commitment of the crimes stipulated in the paragraphs 1 and 2 the life or the health of a migrant is endangered, or the migrant is treated especially humiliating or cruelly, or he/she is prevented the use of the rights he/she has according to the international law, the stipulator shall be sentenced with imprisonment of at least eight years.
- (4) If the crime stipulated in paragraphs 1 and 2 is committed against a minor, the defendant shall be sentenced with imprisonment of at least eight years.
- (5) If the crime referred to in paragraphs (1), (2), (3) and (4) of this article is committed by an official person while performing his/her duties, he/she shall be sentenced to imprisonment of at least ten years.
- (6) The means and the vehicles used for committing the crime shall be confiscated.

In January 2015, the Parliament adopted the Resolution of the Migration Policy of the R. Macedonia 2015-2020.³¹ The document articulates the position of the country concerning the regulation of issues pertaining to migration in general and with specific reference to migrant smuggling, as well as their efficient management. Moreover, an Action Plan with concrete measures and activities related to migration policy has been submitted together with it.

The central institution responsible for irregular migration, as elaborated in the Policy Responses chapter, is the Ministry of Internal Affairs (MoI), which is responsible for all the issues related to the movement and residence of foreigners, the security of the border as well as for the investigations related to smuggling operations. The Directorate for Execution of Sanctions under the auspices of the Ministry of Justice is responsible for the imprisoned smugglers, while the Ministry of Justice is more broadly responsible for prosecution of smuggling activities.

Regarding the immediate neighbourhood, challenges have been reported in the implementation of the readmission agreement between the Former Yugoslav Republic of Macedonia and Greece. As there is no protocol for implementation of the readmission agreement, the legal basis for readmission with Greece is the Readmission agreement between the Former Yugoslav Republic of Macedonia and the European Union. The Former Yugoslav Republic of Macedonia has initiated signing of the readmission protocol with Greece in order to shorten the complicated procedures, but there is no official answer upon that initiative.³² However, the authorities claim that there is nonetheless an improvement in cooperation with their Greek counterparts recently and that the readmission process is currently operating smoothly.³³

Similar to Greece, entry is interconnected with exit. Hence, the majority of irregular migrants entering the Former Yugoslav Republic of Macedonia, utilise the country as a transit point on their journey to the European Union. Serbia is the next point of entry, with the intention of eventually entering Hungary.

2.4.3 General Background Hungary

The border between Hungary and Serbia consists of 156.9 km of land border, and 17.5 km of blue border (river Tisza), see Figure 2 below. There are 8 border crossing points (BCPs) situated at this border section: Hercegszántó BCP; Bácsalmás BCP; Tompa BCP; Kelebia BCP (railway); Ásotthalom BCP (road), Röszke BCP (motorway), (Röszke) BCP (road from 1 August 2015); Szeged (Röszke) BCP (railway); Szeged port BCP (Tisza river, must preliminarily sign in); Tiszasziget BCP.³⁴

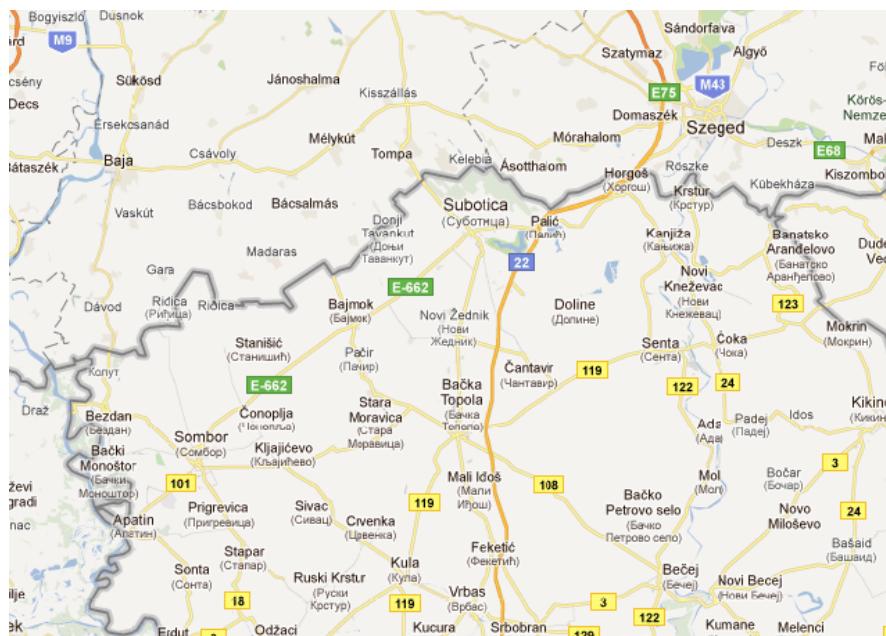
³¹ Resolution of the Migration Policy of the R. Macedonia (2015-2020), 2014, Official Gazzete of R. Macedonia, 8/2015

³² MK/A/3

³³ MK/A/5

³⁴ Information is provided by the Analytical Unit of the National Police, General Directorate for Law Enforcement, Hungary, 14.10.2011.

Figure 2: General map of the Hungarian border region with Serbia.



Source: Google.

The Hungarian-Serbian border consists of open plains without any natural barriers (except the Danube and Tisza rivers and their floodplains), which makes crossing relatively easy. Currently, the dominant modus operandi of migrant smuggling and irregular migration in general on this section of the Western Balkan route is crossing the "green border" between Serbia and Hungary on foot.

In Hungary, detections of illegal border crossings reached a peak in 2014 and have continued steadily in the first months of 2015, with 87% of all detections of illegal border crossings in 2014 taking place at the border with Serbia. Until 8 August 2015, the Hungarian Police apprehended 114 729 persons for illegal border crossing; almost all of them (more than 113 986 people) caught at the Hungarian-Serbian border (see Table 6 below).

Moreover, the end of 2014 and the beginning of 2015 were marked by, until then, an unprecedented number of migrants from Kosovo irregularly crossing the Serbian-Hungarian border and claiming asylum in Hungary upon apprehension (see Tables 8 and 9 below). In response, international cooperation among police forces from Hungary, Serbia, Kosovo, Germany and Austria took place, which dramatically reduced the number of migrants from Kosovo entering Hungary.

Trends have significantly changed since February 2015. While the Kosovar irregular migration wave was almost entirely eliminated by March 2015, irregular migration pressure continued, reaching a peak in August 2015 with up to 3,241 apprehensions in one day on 26 August). At this point, the main categories of migrants include Syrians, Afghans, Pakistani, Iraqi, Bangladeshi and Palestinian nationals (see Table 8 below for top 10 countries of origin).

From Hungary, the smuggling route usually continues towards Austria driving on the highways, mostly through Budapest, via the highway network around the capital (for more information on this, see Secondary movement from Hungary section in the Other trends subchapter). Due to the stronger police presence on the motorway towards Austria and on international railways, the route had been temporarily redirected towards Slovenia, making the route from Hungary to Slovenia to Austria.³⁵ However, since February 2015 when the number of Kosovar migrants dropped, the most common route became again the one from Hungary to Austria, with the alternative route being Hungary to

35 HU/N/3

Slovakia and to the Czech Republic. The most desired final destination countries for smuggled migrants transiting Hungary are Austria, Germany, France, Switzerland, the UK and Sweden.³⁶

Hungary has signed (14 December 2000) and ratified (22 December 2006) the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. In line with this Protocol, the definition of migrant smuggling in the Criminal Code of Hungary Section 353³⁷ is persons helping another person, for financial gain, to illegally cross state borders (not only the borders of Hungary).

"(1) Any person who provides aid to another person to cross state borders in violation of the relevant statutory provisions is guilty of a felony punishable by imprisonment not exceeding three years.

(2) The penalty shall be imprisonment between one to five years if illegal immigrant smuggling:

- a) is carried out for financial gain or advantage; or
- b) involves several persons crossing state borders.

(3) The penalty shall be imprisonment between two to eight years if illegal immigrant smuggling is carried out:

- a) by tormenting the smuggled person;
- b) by displaying a deadly weapon;
- c) by carrying a deadly weapon;
- d) on a commercial scale; or
- e) in criminal association with accomplices.

(4) Any person who engages in preparations for illegal immigrant smuggling is guilty of misdemeanor punishable by imprisonment not exceeding two years."

In the Hungarian Criminal Code considers both smugglers and facilitators (further defined under Section 354 of the Criminal Code) as perpetrators. They both fall under the definition of perpetrator (Chapter on Criminal Liability): "Perpetrator" means the principal, the covert offender and the co-actor (referred to as "parties to a crime"), as well as the abettor and the aider (referred to collectively as "accomplices"). The penalties applied to "parties to a crime" also apply to "accomplices".

The asylum aquis, including provisions on asylum detention, underwent numerous changes in the course of 2013, some of which seemed to have had a direct impact on the scale of migration flows via this route in the course of 2014, which will be further discussed in the chapter on Policy Responses.

The overall responsibility for the issues related to migration in Hungary lies with the Ministry of Interior. Main law enforcement agencies involved in addressing migrant smuggling are the National Police, in charge of strategic or policy considerations in terms of preparing legislation and drafting policy documents, alien policing, (forced) returns of irregular migrants and border control, and the National Bureau of Investigation (NBI), the investigative entity, subordinate to Hungarian National Police and the Ministry of Interior. For the judicial sector, prosecution service and the courts are involved when it comes to criminal procedures.

The Hungarian Government has launched a national consultation on migration issues in March 2015, which is ongoing through May and June 2015 in the form of a survey sent by mail to citizens of Hungary. According to the ECRE member organisation the Hungarian Helsinki Committee (HHC), the plans publicly announced by the Prime Minister and other government officials include passing legislation that would enable authorities to immediately detain and return all migrants entering irregularly in Hungary, including asylum seekers. The Migration Strategy for the period

³⁶ HU/N/1

³⁷ Hungary: *Criminal Code* (2015). <http://www.refworld.org/docid/4c358dd22.html>. Accessed 20 April 2015.

2014-2020 has special provisions on irregular migration, including the improvement of cooperation and coordination in the fight against illegal migration, capacities, detention facilities, and on forced and voluntary return.

In terms of cooperation with third countries, Hungary has signed a Memorandum of Understanding (MoU) with Serbia on allowing land transport of migrants to Kosovo (by closed charter buses) which they had previously blocked.³⁸ Moreover, a Joint Liaison Office/Common Contact Point of the Serbian and Hungarian Police in Röszke, Hungary opened 1 July 2014. Officers from both countries can seek information at this shared police centre. Further cooperation on between Hungary and other countries along this route is included in the chapter on Policy Responses.

³⁸ Council of the European Union (2015), *Final report on Joint Operation "Mos Maiorum"*.
http://www.consilium.europa.eu/register/en/content/out/?&tvp=ENTRY&i=ADV&DOC_ID=ST-5474-2015-INIT. Accessed 24 August 2015;
 Belügyminisztérium (2015), *Belgrádban tárgyalt a magyar, a szerb és az osztrák belügyminiszter*.
<http://www.kormany.hu/hu/belugyminszterium/hirek/belgradban-targyalt-a-magyar-a-szerb-es-az-osztrak-belugyminszter>. Accessed 24 August 2015.

3. Migrant smuggling along the selected route

This section covers the main evidence collected in the course of this study on patterns and practices of migrant smuggling operations along this route, focusing on the specific route segments of Greece-Former Yugoslav Republic of Macedonia and Former Yugoslav Republic of Macedonia-Hungary. Within each route section, the relevant information available is included in sub-sections on dynamics, scale and patterns; modus operandi; smugglers organisation and migrants' relations with smugglers. In the final section of this chapter, "Other trends", findings that have been illuminated in the course of the research but that fall outside the selected routes and route segments have been included, in particular on secondary movement from Greece to other destinations and secondary movement from Hungary.

3.1 Route segment Greece – The Former Yugoslav Republic of Macedonia

3.1.1 Dynamics, scale and patterns

Irregular entry and exit in Greece are treated as interconnected vessels, i.e. from the interviews it became clear that those entering the country expect to leave and thus authorities assume they will likely attempt to transit either via the sea border to Italy or through the land border to the Former Yugoslav Republic of Macedonia and onwards to Serbia and Hungary.³⁹ In that sense, Greece can now be considered an established transit space, where entry and largely exit are controlled by persons facilitating smuggling.

Routes depend on nationalities, however there are roughly three established (based on information available, apprehension data and interviews with migrants) routes of exit from Greece. The first is from the land border towards the Former Yugoslav Republic of Macedonia (mainly for Afghans, Pakistanis, Eritreans, Syrians, Iraqis, Kurds), which is the focus of the present report. The second is the sea route to Italy (mainly for Afghans, Syrians, sub-Saharan Africans), which is discussed in the "Other Trends" section below and also in Case Study 1, and the third is the air route⁴⁰, from the airports of Athens but also smaller airports on the islands during the height of the tourist season (August) using fraudulent documents (or genuine documents of EU citizens the migrant resembles or that have been slightly altered).

Though entry has fluctuated between land and sea border, i.e. from the Greek-Turkish land border in the region of Evros to the maritime border (See Case Study 3) and the extensive coastline making up the external maritime south-eastern borders of the Union, exit from Greece was until fairly recently primarily via air and sea (the route to Italy).

On the side of entry to the Former Yugoslav Republic of Macedonia, in most of the cases, migrants enter from Greece near the southern border crossings Bogorodica and Star Dojran, via the "green border" (i.e. between border crossing points).⁴¹ According to the Former Yugoslav Republic of Macedonia National Rapporteur for Trafficking in Human Being and Illegal Migration, in 2014 several irregular crossings have also been detected on the official border crossing point with Greece at Medjilija (near Bitola) as well as the border crossing point Deve Bair on the Macedonian-Bulgarian border. The high number of illegal crossings from Greece is reported in the draft annual report for 2014 of the National Rapporteur for Trafficking in Humans and Illegal Migration, where it is stated that the "major part of the illegal crossings of the state border in 2014 were registered in the part toward Greece (551, or 48,67%)"⁴², with the remaining detections taking place along the borders with Albania, Serbia, Bulgaria and Kosovo (in descending order).

The main countries of origin of transit migrants in Greece are Syria, Afghanistan, Albania, Pakistan, Bangladesh, Iran, Iraq, Eritrea, Sudan, Georgia and Somalia, as evident in apprehensions of the last 5 years (See Table 4). Irrespective of mode of travel, the final destination countries are mainly Germany, Sweden, Austria and the Netherlands. Italy is

³⁹ This was discussed in one way or another by all of the interviewees, agencies, stakeholders and migrants alike.

⁴⁰ All nationalities can potentially use this route depending on access to fraudulent documents, however in relation to the Afghans specifically, previous research has noted that it tends to be preferred by families and especially women travelling with children (see Dimitriadi, A (2015), "Greece is like a door, you go through it to get to Europe": Understanding Afghan migration to Greece". IRMA Final Report, Athens: ELIAMEP.

⁴¹ MK/A/3

⁴² Draft Annual Report of the National Rapporteur for combating Trafficking in Human Beings (THB) and Illegal Migration (2014); p.12

also most often used as a transit country, for the journey to Northern Europe. For the 2015, the situation has radically changed both in terms of the size of arrivals and nationalities. The first seven and half months of 2015 (January-August 15th 2015) Greece recorded 157,000 arrivals of which 110,000 are of Syrian origin. Of those, the overwhelming majority arrived via the maritime border (126,250 apprehensions in total by coastguard) and was largely concentrated in the islands along the Greek-Turkish coastline, specifically Lesvos (61,363), Chios (21,925), Kos (28,100), and Samos (14,604⁴³).

Table 4: Top 10 nationalities of apprehended Third Country Nationals for illegal entry and stay in Greece (2009-2014).

2010		2011		2012		2013		2014	
Albania	50.175	Afghan-istan	28.528	Afghan-istan	16.584	Albania	15.389	Syria	32.520
Afghan-istan	28.299	Pakistan	19.975	Pakistan	11.136	Syria	8.517	Albania	16.751
Pakistan	8.830	Albania	11.733	Albania	10.602	Afghan-istan	6.412	Afghan-istan	12.901
Palestine	7.561	Bangla-desh	5.416	Syria	7.927	Pakistan	3.982	Afghan-istan	6.184
Algeria	7.336	Algeria	5.398	Bangla-desh	7.863	Bangla-desh	1.524	Pakistan	3.621
Somalia	6.525	Morocco	3405	Algeria	4606	Somalia	1.004	Somalia	1.876
Iraq	4.968	Iraq	2863	Iraq	2212	Eritrea	726	Bangla-desh	1.164
Bangla-desh	3.264	Somalia	2238	Morocco	2207	Iraq	700	Iraq	1.023
Morocco	1.645	Palestine	2065	Somalia	1765	Georgia	568	Eritrea	1.019
Eritrea	1.628	Congo	1855	Palestine	1718	Palestine	469	Georgia	838

Source: Data by the Hellenic Police⁴⁴

The numbers provided by the Sector for Border Affairs and Migration within the Former Yugoslav Republic of Macedonia Ministry of Internal Affairs, show a significant increase of apprehended migrants originating from Syria as of 2013, a slight increase of apprehended migrants from Afghanistan, while the number of apprehended migrants originating from West African countries is insignificant. Nevertheless, Albanian nationals are registered as most numerous irregular migrants in the period of 2009-2014.

⁴³ For a detailed breakdown see UNHCR (2015), Greece Operational update (21 July-21 August 2015), www.unhcr.gr

⁴⁴ Hellenic Police <http://www.astynomia.gr/>

Table 5: Number of illegal crossings of the borders of Former Yugoslav Republic of Macedonia (2012–February 2015).

Nationality	2012	2013	2014	2015 (Jan-Feb)
Albania	328	400	624	34
Afghanistan	65	134	291	118
Syria	/	116	570	176
Pakistan	88	73	21	15
Macedonia	78	46	67	67
Ivory Coast	/	36	2	1
Mali	/	36	9	/
Somalia	34	34	42	28
Senegal	1	31	/	/
Algeria	5	27	7	/
Serbia	12	12	7	/
Eritrea	4	11	15	/
Bangladesh	4	26	5	1
Other	63	150	90	41
Total	682	1132 (increase of 54,6% compared to 2012)	1750 (increase of 156% compared to 2012)	481

Source: Annual Reports of the National Rapporteur for Trafficking in Human Beings (THB) and Illegal Migration (2012, 2013, 2014-draft)⁴⁵; Statistical data provided by the Sector for Border Affairs and Migration, Ministry of internal Affairs of the Former Yugoslav Republic of Macedonia

For an overwhelming number of these migrants, Greece is a transit destination, the first leg of the journey within the European Union. The choice of Greece is partly a result of its geographical position and partly a result of information, particularly as regards Bulgaria. A Syrian interviewee explained that: "We come to Greece and our journey starts from here"⁴⁶ and noted that he had not considered crossing the Turkish-Bulgarian border because Greece was considered a safer way to enter the EU. In Bulgaria: "They don't understand what's the meaning of refugees"⁴⁷, and the migrant explained that though it is in the EU, it is worse than most countries in the Union and thus the best way to go remains Greece.

Generally, Syrians prefer to reach Hungary and apply for asylum, aware they will not be deported. They appear to be informed about this already prior to arrival to Greece, and likely have received such information while in Turkey. They are aware that they are treated as *prima facie* refugees. In contrast, Afghans, who have a higher rejection rate in

⁴⁵ The annual reports of the National rapporteur for trafficking in human beings and illegal migration are available here: <http://www.nacionalnakomisija.gov.mk/nacionalen-izvestuvach>. Accessed 01.04.2015.

⁴⁶ GR/M/SY/01

⁴⁷ GR/M/SY/01

their asylum applications, prefer to cross through the Former Yugoslav Republic of Macedonia, Serbia and Hungary quickly because their primary desired destinations are Austria and Germany, where established Afghan migrant and family networks exist.⁴⁸

3.1.2 Modus operandi

If one follows the migrant along their journey, variations begin to appear with regard to the route. The “route” is not always as organised as imagined, nor the networks as “connected” as originally assumed. In fact, the journey from Greece towards other Member States of the EU is roughly spread out along three distinct routes, and each leg of the journey can take place in a different manner; assisted, alone, with ease, at risk, etc. Everything depends on the financial capacity of the migrant (i.e. how much can one afford to pay), the destination (which determines to an extent the route) and the smuggler – when used – who determines the transport, length of journey and cost. Migrants who depart from Greece have either resided irregularly in the country for a length of time and following the economic depression decided to seek better opportunities elsewhere, or are predominantly (since 2012) forced migrants and potential refugees that attempt to bypass the Greek asylum process (and foresee to ask for asylum elsewhere) or reside temporarily in Greece and depart once they have collected the money for the journey onwards. Money is either wired from family members or, in the past, through employment in the informal labour market of Greece. However, considering the informal sector has shrunk significantly in the last three years, it is common to encounter migrants who have been trying to gather the required sum but never quite succeed. Thus, their transit is often discussed as an aspiration and less as an immediate reality. The Syrians are a notable exception to this, since the majority arrive with the required sum to continue the journey or receive the money via family members once they arrive in Greece.

Overall, two main routes were identified from Greece into the Former Yugoslav Republic of Macedonia. The first and most common route begins from Thessaloniki to Euzonoi (a village on the border). From there, migrants, either with the assistance of smugglers or alone, cross the border on foot.

The second route departs from Thessaloniki, where through the use of public buses migrants can reach Kilkis. From there they use taxi services operated locally to get close to the border. The persons offering these services are often not part of a smuggling operation but regular taxi drivers who profit from transporting irregular migrants close to the border. From there, migrants attempt to walk and cross on foot into the Former Yugoslav Republic of Macedonia alone.

According to the Al-Jazeera journalist interviewed in course of this study and who investigated the recent migrant smuggling flows in the Former Yugoslav Republic of Macedonia, migrants cross the Greece-Former Yugoslav Republic of Macedonia border either alone or in groups.⁴⁹ They do so either on foot, or they are hidden in vehicles and freight trains.⁵⁰

It is significant and worth noting that migrants along this route often attempt to cross alone, because the majority will attempt to cross at least once on their own without the assistance of a facilitator. It reduces the cost of the journey and, in the words of an interviewee who attempted the crossing: “there are too many ways to cross, it’s a big border.”⁵¹ This was confirmed also in an interview with a journalist, who noted that migrants may choose to cross along based on their assessment of a number of related factors, including security, prices of the smuggling cross border operation, previous agreement made with the smugglers etc.⁵² This was also confirmed in an interview with a representative of a law enforcement agency (LEA-GR):

“They do not always use a smuggler for the land border exit. Many migrants carry high end mobiles with GPS, they utilise the GPS and the Google maps and attempt to cross the border on their own. Usually a smuggler

⁴⁸ For the Afghans, see Dimitriadi (2015) “Greece is like a door to Europe’: Understanding Afghan migration to Greece”. IRMA project, Athens, ELIAMEP.

⁴⁹ MK/O/1

⁵⁰ MK/O/1

⁵¹ Interview GR/M/SY/01

⁵² MK/O/1

has given some instructions how to cross but there are now in most areas footpaths that they can follow. Once they cross the border into Skopje, there arrangements have been made to be picked up by smugglers and driven near the Serbia-Hungary border.”⁵³

However, some of the interviewed migrants in the Former Yugoslav Republic of Macedonia claim that they decided to cross the Greece- the Former Yugoslav Republic of Macedonia border with a support of a smuggler, not being aware about the frequent police controls on border crossings.

“We hid in the truck full of lemons. We were group of several migrants, but the police found us during the border crossing check.”⁵⁴

Although crossing the border without a smuggler reduces the cost of the journey, it also increases the risk of apprehension, which has resulted in many being deported to Greece and at times even Serbia (usually if the migrant does not declare entry from Greece) with one case interviewed describing a continuous back and forth; deported from Serbia to Montenegro (though they had entered from the Former Yugoslav Republic of Macedonia), from Montenegro told to walk back to Greece and instead entering Kosovo, and from there deported to Serbia who then returned them to Montenegro and from there to the Former Yugoslav Republic of Macedonia.⁵⁵ This back and forth takes place at times informally (particularly the reference to returning on foot from Montenegro to Greece) and is an indication of the porousness of the borders in that particular area but also of the terrain itself, which at times can facilitate clandestine mobility.

Due to the fact that many migrants try to cross on their own but a significant number of them are always apprehended, one interview reportedly believes the smugglers must be connected with the other side and thus smugglers would prevent such independent action outside their control by notifying the police when migrants try to cross on their own. Once they are deported/returned to Greece, smugglers approach them and inform them that only they can get them safely across.⁵⁶ However, in reference to the Greek border, one interviewed Greek smuggler noted that smugglers are “fairly blind” in terms of border patrols and checks, though they have information on major policy initiatives like Operation Shield and the fence.⁵⁷

The interviews discussed the land border as simultaneously porous and difficult to successfully cross and the role of the smuggler appears to be critical not so much in the first leg of the journey, i.e. Greece- the Former Yugoslav Republic of Macedonia (though smuggling does take place) in as much as the second leg, the Former Yugoslav Republic of Macedonia-Serbia and onwards to Hungary (see next section on Former Yugoslav Republic of Macedonia-Hungary).

The land border route to the Former Yugoslav Republic of Macedonia is fairly recent and it was referred to by migrants as:

“This route is really easy”⁵⁸

“We were suggested to this route by our friends who already managed to cross this border to cross by foot through the green zone, so we did it easily”⁵⁹

Once in the Former Yugoslav Republic of Macedonia, the routes also diverge according to the interviews. Some migrants have contacted smugglers ahead of time, who wait for them and pick them up with cars and taxis and driven them near the Serbia border, which was noted by a Greek law enforcement agency and a smuggler operating in Greece.⁶⁰ Others leave from Euzonoi in small groups, and reach Gevgelija in the Former Yugoslav Republic of

⁵³ GR/A/03

⁵⁴ MK/M/SY/3

⁵⁵ GR/M/AF/07

⁵⁶ GR/N/07

⁵⁷ GR/S/AF/03

⁵⁸ GR/S/AF/03

⁵⁹ MK/M/SY/2

⁶⁰ GR/S/SY/04; GR/A/03

Macedonia from where they use taxis or public transport connections.⁶¹ The final stop where all routes appear to meet is the village of Lojane in the Former Yugoslav Republic of Macedonia.⁶² There, even those who have conducted part of the journey without a smuggler will seek to contact someone to help them cross into Serbia and eventually Hungary.

Routes are identified in various ways. For migrants arriving in Greece, their co-ethnics are the most common referral point for information both on staying and transiting from the country. Detention centres have also proven to be a way of acquiring information, particularly as regards potential transit points and costs. Those who have tried before, tend to pass their knowledge to the new arrivals. Smugglers are the third way of acquiring such information, as is social media, where migrants and specifically Syrians reported that successful migrants tend to post on their Facebook page the route they followed:

"You have everything on the internet. There are Facebook pages specifically explaining this route, created by people who already experienced this journey. Everything is explained there, point by point, including the possible risks."⁶³

More information on information sharing among migrants and the use of social media is included in the sub-section "Demand side".

The duration of a facilitated trip along the entire route from Greece to Hungary can range from less than one week, in the best case scenario, to more than a year, depending on available means for the smugglers' services and the number of deterrents in transit countries (e.g. detention, expulsions) and on the time it takes for the organisers to arrange the trip (i.e. recruit a sufficient number of migrants for certain transportation to maximise the profit), or respectively, for migrants to earn the money for the trip onwards in the hubs. For those walking the route section from Greece to Serbia, the journey may reportedly take several weeks.⁶⁴

Moreover, the modus operandi changes constantly, depending on three variables: border control policies (see Policy Responses section below), route and prices. In other words, a facilitator of irregular exit can offer various alternatives to exit depending on the route and border, level of patrolling, risk and types of transport. Routes with ease of access and low risk are usually low cost (for example the land border crossing from Turkey to Greece in the Evros region was considered "low cost" prior to the fence). High risk and border controls result in higher prices, for example the airport falls in this category as is increasingly the crossing to Italy (due to the heightened controls at ports from both the Greek and Italian side).

Prices range based on the aforementioned elements, which leg of the journey the migrant is interested in but also taking into account gender, age (children for example tend to be charged less), and nationality.⁶⁵ It is crucial to note that not all smugglers offer the same level of service. Some limit their operation to specific border areas, others to specific modes of transport, and others can offer a range of services and routes, and the majority has a specific trajectory they operate. More information on smugglers organisation is included in the next subsection "Supply side".

Prices thus, are depended on the risk, how many (and who) are involved but they also diverge depending on transportation. Long distance walks, with 2-3 days on foot reduce the price of the crossing, as does being transported with many people hidden in vans, amongst cargo, etc. Taxis, on the other hand, with 3-4 people are expensive. Guaranteed routes, i.e. where arrival is guaranteed (including for example several tries if needed), also drive the prices up. The number of drivers involved also affect the route prices. If the smuggler has to pay and change many drivers along the way, the price increases for the migrant, because the smuggler has to pay the driver and cover the gas en route. At the same time, knowledgeable drivers who know back roads and routes are pricier.

⁶¹ Interview GR/M/SY/01

⁶² <http://www.theguardian.com/global-development/2015/apr/06/fear-fatigue-separation-migrants-western-balkans-west-africans-eu-back-door?CMP=fb/qu> ; Interview GR/S/AF/03

⁶³ Interview, MK/M/SY/2

⁶⁴ Interview HU/M/GN/10

⁶⁵ GR/A/03, GR/A/01, GR/N/02, GR/S/SY/04

The most prominent “office” among Arabs in Istanbul guarantees to reach Austria along this route for the price of 5000 EUR per person in 5 days.⁶⁶ However, most of migrants are not able to afford such “full package deals”, thus using step-by-step smuggling services, as is often the case in this route:

“People who have sufficient money travel very fast – they hire providers who cover the services from the countries of departure to the country of destination, organised on an international level. These are rare examples; at least we hardly see such persons, which doesn’t prove absence of such practice. They often pass under the radar. Everything else is related to local levels. Those who earn along the way are in the most difficult position: without contacts, seeking smugglers randomly around border areas. They are more likely to get deported and make endless repeated attempts to cross the border. It is our impression that people rather rarely travel on their own, without any assistance in some route section.”⁶⁷

Thus, although along this route section the research has shown that a large proportion of migrants attempt to cross from Greece into the Former Yugoslav Republic of Macedonia on their own without the help of a smuggler, it is unlikely that they would not use a smuggler at some point along the journey. Moreover, the cost significantly impacts their mode of transport and the amount of time required for the entire journey.

From Greece to the Former Yugoslav Republic of Macedonia, the organised journey (i.e. with a smuggler) can reportedly range from 1500 EUR to 3000 EUR.⁶⁸ However prices are not fixed; instead they adjust at times weekly. One migrant interviewee noted that he paid the smuggler 700 EUR for the border crossing from Greece to the Former Yugoslav Republic of Macedonia, which is a further indication that there is a price range from which each smuggler chooses.⁶⁹ As another example, from September through November 2014 the cost of travel from Greece to Hungary was 4000 EUR, a price also confirmed by the smugglers interviewed in the Former Yugoslav Republic of Macedonia.⁷⁰ However, during the winter period prices dropped dramatically to 1000 EUR for the land border exit from Greece. Instead, during the heavy winter period, airport prices increased, which reinforces the initial assessment that everything from routes of entry to routes of exit are connected. When one of the three pathways towards Western Europe becomes inaccessible due to weather conditions or border controls, the prices increase for the remaining exit sites. When accessibility is easy, and demand is low, prices reduce for all strands.

Interviews with two individuals involved in smuggling operations further confirmed the fluctuation in prices.

“Prior to 2012 the route to Serbia was charged 500EUR. Today it goes to 2000EUR, mainly due to demand but also slight increase of risk.”⁷¹

Moreover, a recent trend that regards payment is worth mentioning. Syrians have been found to pay the most in Greece and interviews revealed that this is partly due to the smugglers but also partly due to the Syrians themselves:

“Leaving Syria is risky and smugglers transport them at a risk so the price is high. But once in Greece, the Syrians also drive the price up because they demand swift transportation and often when in Greece they want to leave within a few days and are willing to pay more to achieve it. So Syrians pay a lot more than anyone else [and tend to drive overall prices up].”⁷²

The smuggling operations through the Former Yugoslav Republic of Macedonia (from the border with Greece to the village of Lojane (near the Serbian border, according to the interviews conducted, cost the migrants between 1000-1500 EUR.⁷³ Depending on the circumstances (weather conditions, ways and means of transportation, etc), the prices can be lower and range between 600 to 800EUR. Since the asylum law changes in Former Yugoslav Republic of Macedonia entered into force in June 2015 (see the Policy Responses part of the study), these costs have slightly

⁶⁶ HU/M/IQ/1

⁶⁷ RS/N/1

⁶⁸ GR/M/SY/08

⁶⁹ GR/M/AF/07

⁷⁰ MK/S/MK/1; MK/S/MK/2

⁷¹ GR/S/AF/03 and confirmed in Interview GR/M/AF/06

⁷² GR/S/AF/03

⁷³ MK/A/3

reduced, since the migrants are allowed to move freely and use public transportation in the country for three days after having lodged an asylum claim.

Prices are generally not “all inclusive”. Payment usually covers the transportation, whereas everything else, from accommodation to food and water are charged extra.⁷⁴

“It’s not all included. There have been cases where migrants had to wait for a month to pass the border [to the Former Yugoslav Republic of Macedonia] and they stayed in the forest on the Greek side waiting. The guide provided them with food and water but they charge so much for it. In Greece water especially is so cheap but they charged something like 3 EUR per small bottle.”⁷⁵

Regarding only the Greece-the Former Yugoslav Republic of Macedonia-Serbia-Hungary route, there is the “full package” option, offered by some smugglers, which begins from Athens and concludes in Hungary. It is “guaranteed” arrival and costs 5000 EUR or more, depending on the season and general border controls.⁷⁶

With regard to the above “guaranteed” arrival, prices may also cover a certain number of retries. Thus, if the migrant is apprehended while crossing, the smuggler has pre-agreed to allow him to retry entry a certain number of times. If all of these attempts are unsuccessful, the migrant will be asked to pay again, which is also another reason why migrants prefer to attempt crossing to the Former Yugoslav Republic of Macedonia at first alone and then, if they fail, try again with a smuggler. However, one of the interviewees noted that smugglers use all means necessary to have additional profit.⁷⁷

Payment is also most commonly organized through *hawala*⁷⁸, hence money is not offered in advance. *Hawala* takes place in shops, most often minimarkets, cafes and service-operated places (like internet cafes). Owners are of the same nationality as the migrants and often from the same area in the country of origin. According to one smuggler interviewee⁷⁹, most of the offices that ran *hawala* in countries of origin, departure or transit have also offices in Europe and the money tends to end up in European banks. However the offices in Europe are not the headquarters; these are based usually in Qatar, Dubai and Asia. The shop owners charge percentages depending on risk. For example from Turkey to Syria the owner will request 4% for the *hawala*, whereas from Turkey to Greece its 2,5%. The difference is in the risk, since to send money from Turkey to Syria today is considered extremely risky.⁸⁰ Because the system requires proof, a code is usually issued to the migrant. Upon arrival to the agreed country or to the leg of the journey the migrant has agreed to pay (usually long distances are paid in segments), the migrant will send a text message to the shop owner with the code and assure him of his safe arrival. The smuggler will present the same code to the shop and the money will be released. Thus, payment only takes place after safe arrival of the migrant, either after arrival at individual stages or after arrival at the desired destination. All transactions take place in EUR, both for entry to Greece and exit from the country.

Recently and because of the increase in deaths at the crossing a new method of proof is requested, where aside from the code the migrant sends the shop owner a picture of himself near a famous monument of the country of arrival, to ensure his is physically unharmed. The owner then releases the money. In this system, the smuggler only gains by ensuring the migrant reaches his destination, because otherwise he is not paid for services rendered.

Research in the Former Yugoslav Republic of Macedonia showed that migrants’ funds for the trip end up not only in the pockets of organisers and facilitators, but also in the pockets of criminal robber gangs along the route and

⁷⁴ GR/N/07; GR/N/02

⁷⁵ GR/N/02

⁷⁶ GR/N/02

⁷⁷ Interview GR/N/07

⁷⁸ The *hawala* system refers to an informal channel for transferring funds from one location to another through service providers—known as *hawaladars*—regardless of the nature of the transaction and the countries involved (further info available at <http://www.gdrc.org/icm/hawala.html>)

⁷⁹ GR/S/SY/04

⁸⁰ According to the informant, this is due to the attempted monitoring undertaken by the Assad regime, whereby transactions are used to identify who is sending or receiving money from abroad and thus has family member or friend who has fled the country. This is however a personal opinion of the interviewee and uncorroborated. GR/M/SY/05

possibly also for paying bribes to the authorities in countries of departure and transit.⁸¹ One of the interviewees was robbed and even injured on his way to the northern part of the country:

"We were walking on the train track near Veles, when we heard that somebody was shooting. A robber gang of 5 people approached us and asked for our money and personal belongings. I refused to give them my watch and we started to fight. I was injured in my leg by a bullet. The gang escaped immediately after that. Probably the local people heard the shooting and reported it to the police. The police came shortly afterwards and I was transferred to a hospital."⁸²

Such instances demonstrate also the risks migrants face along their journey, which will be further described in the section on "Demand side".

3.1.3 Supply side: Smugglers and their organisation

Different nationalities of smugglers reportedly work in different border areas. For the exit from Greece to the Former Yugoslav Republic of Macedonia, smugglers are primarily Syrians, Afghans, Pakistanis and Kurds. The nationalities of the smugglers are usually the same (or from the same region) as those of the migrants. Thus, Syrians will opt for a Syrian smuggler, Afghans for Afghani, etc. However, the nationality of the initial recruiter (or head smuggler) does not mean that everyone in between is also of the same profile.

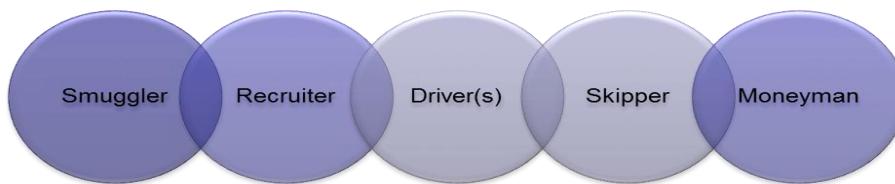
In fact, the interviews with the persons involved in the smuggling operations revealed a very loose level of organisation, contradictory to the notion of organised criminal networks.

Interviewees explained that there is no vertical or pyramid structure with a head/top man and specific people underneath. The process, with few exceptions⁸³, is unlike that of a criminal organisation where people are tied and committed to the group, cannot leave and are often bound by oath.

Smuggling is instead described as a chain with links, small and large⁸⁴ (see Figure 3 below), with the number of participants involved en route dependent on the route itself. Thus there is usually a:

1. Smuggler/top man: they are usually based in Turkey and Greece, they primarily provide the transport and thus retain the majority of the money;
2. Recruiters: they can be of different nationalities and work for different smugglers or they can be the smuggler himself;
3. Drivers: they can be many of different nationalities and work for different smugglers. Their numbers also vary, from as few as two to as many six in any given land route though it should be noted numbers are not fixed and depend on length of route and smuggler's network; and
4. Money collector (*hawala* shop): they usually cover an extended number of smugglers and also non-smugglers since *hawala* is not limited to money transfers for illegal activities.

Figure 3: Depiction of smuggler relations in Greece



⁸¹ HU/M/AF/2

⁸² MK/M/SY/2

⁸³ And in those cases usually the network does not provide smuggling oriented services but rather trafficking of human beings, drugs, weapons etc.

⁸⁴ The interviewee drew on a piece of paper a visual of the structure, which we are including here. Interview GR/S/AF/03

Figure 3 depicts a very basic chain link (see also case study 3). The in-between meeting points, i.e. the intersections of between circles are the intermediaries, who can range from someone who provides mobiles, to hotels, to recommending a driver, to finding modes of transport, etc. The intermediaries do not have to reside in the countries of transit, in fact in many cases they are as far away as the countries of destination and perform all activities via mobiles and the internet. Other times they are legal residents, with small legal businesses like mini markets, traditional food shops etc.⁸⁵

Depending on the type of route and operation, drivers could be as many as six, and intermediaries equally many. The constant is the moneyman, the *hawala* broker who receives the money at the beginning of the trip and releases it at the end. In that sense, the actual journey begins and concludes through him.

The chain links connect and disconnect as the smuggler interviewees explained because a recruiter, driver, intermediary and moneyman can work for multiple routes and multiple smugglers.⁸⁶ This means that those involved know who comes before and who follows after them but they do not necessarily know who is in charge nor who the final recipient of the money is and they do not necessarily know the (desired or actual) outcome of the journey. The top man, the smuggler, is in fact responsible for transportation; they are the ones who provide the cars or trucks or boats, often they own them and at times they rent or steal them. The top man is also responsible for setting the price and for arranging which *hawala* shop the migrant will use. But the money man is independent and his reputation is also important as he ensures the money is only released upon arrival (thus he is recommended by the smuggler but is independent from him).

This description was confirmed by the representative of a law enforcement agency in Greece who also referred to "loose networks" whose members can change or collaborate with each other but also with other networks. He further defined the loose network as comprised of people who come together for a specific task/operation and then dissolve. They can meet again but the same people may have different roles or bring new people in to perform the tasks.⁸⁷ Their interactions are based on collaboration and are not organised like the mafia. In fact, they resemble more freelance employees who provide their services to the highest bidder. Because of this loose organisation, journeys are rarely organised from beginning to end and when they are, they are excessively paid, as noted in the previous section. The overwhelming majority of migrants will split the journey into legs, pay for each leg and attempt some parts of the trip and border crossings, where possible, alone.

Thus there appears to be different types of "smuggling" from Greece but also encountered along this route:

1. Step-by-step smuggling, which can include some legs of the journey taking place without facilitation.
2. Smugglers who fit into the aforementioned description with a list of contacts and potential roles in different countries, including the Former Yugoslav Republic of Macedonia, Serbia, Hungary, etc, based in Greece, who can organise the journey.
3. One-time smugglers, i.e. individuals who decide to profit from a limited or one time border crossing.
4. Drivers who may be part of a chain or act on their own and facilitate migrants in getting closer to the border areas (or even cross them in some cases hidden in lorries).

According to the Greek law, all the above are considered smuggling activities and are punishable with heavy fines and imprisonment (see Greece section of Policy Responses), however as was noted by one interviewee:

"It matters in the end how we define the smuggler. There are people, Greeks, involved in the smuggling process but are usually drivers who transport migrants from one town to another within Greece. They will be treated as a smuggler by the law but in reality they are nowhere near the top of the network and often have

⁸⁵ GR/A/09

⁸⁶ GR/S/AF/03; GR/S/SY/04

⁸⁷ GR/A/03

no knowledge of who is at the top, thus in reality are not part of a network, merely an in-between performing a specific service.”⁸⁸

The convicted smugglers interviewed in the Former Yugoslav Republic of Macedonia (both former police representatives) also highlighted relevant issues with regard to corruption, in terms of police officers or border officials being involved in smuggling operations. In these cases, they provided smugglers with support in terms of transportation, or information on movement of police patrols on the border:

“I was caught because I discovered information about the movement of the police patrols. The police had wiretapped my telephone conversation with the smuggler and I got arrested.”⁸⁹

“I was police commander at the border area, but I owned a taxi company in addition. I used the taxi services to transport the migrants and got arrested”.⁹⁰

In relation to smuggling operations within the Former Yugoslav Republic of Macedonia, the findings are similar to those in Greece. The Resolution for Migration Policy of the R. Macedonia 2015-2020 provides detailed information about the characteristics of the organised groups for smuggling migrants. The modus operandi, according to the same document, has changed comparing to the previous years.⁹¹

In the period of 2009-2011, the organisers of the smuggling operations were usually groups contained of Macedonian nationals. They were horizontally organised and were operating in cooperation with similar groups in Greece and Serbia, organising the illegal crossing through the Former Yugoslav Republic of Macedonia.⁹²

Since 2012, the main role in the smuggling operations (or “top man”, as elaborated previously), has been taken over by organised groups from Afghanistan and Pakistan, which took over the “leadership” of the smuggling operations.⁹³ The members of these groups usually reside and operate from Turkey and Greece. The groups nominate a responsible person in each country along the international smuggling route.⁹⁴ According to the National Strategy for Combating Trafficking in Human Beings and Illegal Migration, the nominated individuals in the Former Yugoslav Republic of Macedonia are mostly foreign nationals.⁹⁵ In the past couple of years, those were primarily nationals from Afghanistan or Pakistan, who have entered the country and reside illegally, trying to earn money in order to continue their way to the Western European countries. In time, as confirmed by the smugglers interviewed in the Former Yugoslav Republic of Macedonia⁹⁶, the Afghan and Pakistani nationals manage to establish contacts with Macedonian nationals and take over the role to recruit locals in the southern part of the country (near Gevgelija). The locals from the southern part of the Former Yugoslav Republic of Macedonia agree to facilitate the migrants immediately upon their entry in the Former Yugoslav Republic of Macedonia, providing transportation services to the northern part of the country.

In the recent period, according to the Sector for Border Affairs and Migration within the Former Yugoslav Republic of Macedonia’s Ministry of Internal Affairs, there is a new smuggling trend. Namely, the smuggling role in some particular cases was taken over by individuals of unknown nationality who use false EU travel documents (claiming to the police that they are Greek, Bulgarian, Dutch, German or Swedish nationals). Since EU citizens are allowed to enter the country with only personal documents, smugglers have used this opportunity and enter the country with fake documents.⁹⁷ Those individuals reside in the Former Yugoslav Republic of Macedonia only temporarily and leave

⁸⁸ GR/A/01

⁸⁹ MK/S/MK/1

⁹⁰ MK/S/MK/2

⁹¹ Resolution of the Migration Policy of the R. Macedonia (2015-2020), 2014, Official Gazzete of R. Macedonia, 8/2015

⁹² Resolution of the Migration Policy of the R. Macedonia (2015-2020), 2014, Official Gazzete of R. Macedonia, 8/2015

⁹³ MK/A/2

⁹⁴ MK/A/2

⁹⁵ National Commission for Combating Trafficking in Human Beings and illegal Migration (2012), *National Strategy for Combating Trafficking in Human Beings and Illegal Migration* (2013-2016), p. 24. <http://www.nacionalnakomisija.gov.mk/mk/nacionalni-akciski-planovi-i-strategii/2013-2016>.

Accessed 03.04.2015

⁹⁶ MK/S/MK/1; MK/S/MK/2

⁹⁷ MK/S/MK/1; MK/S/MK/2

the country as soon as the smuggling operation is done and may repeat this action sometime in the future. Their aim is primarily to gain profit from the smuggling operations.⁹⁸

Smugglers in Greece are located in hubs, i.e. cities that attract a migrant population either due to their location or due to the existence of migrant communities and potentially job opportunities, as well as enable recruitment. They are predominantly located in Athens, and in fact it was noted by a migrant interviewee that it is often written on the internet (likely social media, more information on its use in the next section) that new arrivals should go to Omonoia (an area in the center of Athens) in order to find smugglers.⁹⁹ Thus, it is perhaps unsurprising that the majority of irregular arrivals consider Athens the initial destination and from there organise their journey onwards.

Increasingly a small “market” appears to be establishing itself in Thessaloniki as well:

“Though until late 2014 Athens was the main place to find smugglers and the place where ‘famous’ smugglers could be found, since early 2015 a small shift is taking place to Thessaloniki, where smugglers try to set up operations likely to get involved in the exit route towards the land border.”¹⁰⁰

This was also confirmed by the smugglers interviewed in the Former Yugoslav Republic of Macedonia. They claim that the organisers who are responsible for organising the cross border smuggling operations towards Hungary are usually located in Thessaloniki or in Polikastro.¹⁰¹ For the migrants who decide for a “full package” deal (Greece- the Former Yugoslav Republic of Macedonia - Serbia-Hungary), they work as “smuggling agencies” and recruit guides, usually Afghan or Pakistani nationals, who are responsible to lead the group of migrants on their way to the Former Yugoslav Republic of Macedonia (which includes directions, organisation of the cross border operation including transportation, legal and practical advices etc)¹⁰² or “routers.” The interviewed migrants in the Former Yugoslav Republic of Macedonia didn’t use the term “smuggler” for the people that supported their movement towards desired destinations. They preferred to use the term “router” for the people who were in the role of intermediaries, as well as helped them with the transportation.

This was partially explained by the smugglers interviewed in the Former Yugoslav Republic of Macedonia. According to them, these guides work under direction of their supervisors/organisers (“top men”) of the smuggling operations located in Greece.¹⁰³ They enter the Former Yugoslav Republic of Macedonia illegally in order to conduct the smuggling operation and go back in Greece after the smuggling operation is done.

“When there is a group of migrants gathered in Thessaloniki or in Polikastro, the smugglers organise the journey and appoint leaders who guide the migrants on their way to the Former Yugoslav Republic of Macedonia”¹⁰⁴

Recruitment appears to be bidirectional. Smugglers recruit migrants and migrants recruit smugglers. Recruitment can also depend on demand, i.e. reduction in business may result in an increase of recruitment on the side of smugglers, which was also mentioned by two of the interviewees of law enforcement agencies. Smuggling is considered a supply and demand business entirely regulated by the migrants and the smugglers.

“The smugglers complained in the winter about a reduction in the business, and that Syntagma [explanation below] completely wrecked their business. 600 persons disappeared from the market. I was there and I remember a smuggler was trying to recruit people, telling them he had good passports they could use to leave Greece.”¹⁰⁵

On December 2014, 600 Syrians sat in demonstration at Syntagma square requesting travel documents to leave Greece. In response to the sitting protest amidst a fairly harsh winter and the images of children and families hungry

⁹⁸ MK/A/4

⁹⁹ GR/M/SY/01

¹⁰⁰ GR/A/03

¹⁰¹ MK/S/MK/1

¹⁰² MK/S/MK/2

¹⁰³ MK/S/MK/1

¹⁰⁴ MK/S/MK/2

¹⁰⁵ GR/M/SY/05

and cold in the centre of Athens, the then government promised them fast-track asylum procedures in relation to the examination of their claim. Many already had family members in other EU Member States and were promised an accelerated family reunification procedure. Thus, the “demand” for smuggling services was reduced, by removing 600 people from the smuggling market.¹⁰⁶

For interested migrants, finding the right smuggler is also relatively easy. Cafes in a central street in Athens – often nationality or language-based (e.g. Arabic cafes attract Syrians) – are a gathering place for migrants to receive information on smugglers and get in touch with them. An interview with a journalist who conducted research on smuggling confirmed the visibility and ease of access of migrants to smugglers:

“It is really obvious, not hidden, it is clear for people who search for smugglers. If you want a smuggler you find him.”¹⁰⁷

Smugglers often come recommended, through word of mouth but also through the use of social media, as will be covered in the next section.

3.1.4 Migrants and their families/communities

Migrants tend to post information regarding their journey, conditions, payment and success level online, usually via Facebook and other social media, while often staying in touch with friends and family via Viber and Whatsapp (free messaging platforms for mobile phones). The overwhelming majority has a new generation mobile enabling the aforementioned usage of applications and access to information online. Those who reached their destination safely and were well-treated, tend to make such information available to those who are planning their trip. Similarly, migrants inform each other of smugglers who have mistreated or cheated them of their money (or reneged on the agreement).¹⁰⁸ In this way, information is disseminated.

One migrant interviewee¹⁰⁹ is a good example of the usage of social media. Upon arrival to Thessaloniki, he accessed social media and followed several groups that had succeeded in crossing the borders without smugglers and were posting information on the best and cheapest routes. He utilised this information in an effort to reach the Former Yugoslav Republic of Macedonia.

Moreover, a migrant who managed to cross the border in a group of twelve people, but was identified by the police afterwards and transferred to the Reception Centre for foreigners in Skopje, confirmed that social media helped him to gain information about the route as well as to get in touch with the smuggler in the Former Yugoslav Republic of Macedonia, via Viber.¹¹⁰

“We contacted via Viber and agreed with the “router” in the Former Yugoslav Republic of Macedonia that we would need to pay him 100 EUR to transport us with taxi to the northern border. We also agreed where to meet after we cross the the Former Yugoslav Republic of Macedonia - Greek border. We stayed in the hotel near Euzoni before our group crossed the border.”¹¹¹

Many of the migrants who succeeded to cross the border alone and continue their journey have previously coordinated their journey with smugglers through previous communication. They know exactly where to cross the border and where they will be met by the smugglers, guides or “routers” to continue their way to Hungary, via Serbia.¹¹² This has been clearly noted by one migrant interview:

“My husband was contacting the ‘router’ who explained everything.”¹¹³

¹⁰⁶ TO BHMA. 8 December 2014. Syrian Refugees Continue with Protest on Syntagma Square <http://www.tovima.gr/en/article/?aid=657495>
¹⁰⁷ GR/N/02

¹⁰⁸ This was a finding from the IRMA project, based on interviews with Afghan migrants in transit in Istanbul.

¹⁰⁹ GR/M/SY/08

¹¹⁰ MK/M/SY/1

¹¹¹ MK/M/SY/1

¹¹² MK/M/IQ/1

¹¹³ MK/M/IQ/1

As noted by a wide variety of authority and civil society interviews, the absence of legal avenues of entry pushes both economic migrants, forced migrants and asylum seekers to use smugglers, utilise the same means and routes of entry and exit, and face similar risks.¹¹⁴ Smuggling is fundamentally a business, dependent on demand, as seen in the example of Syntagma square above. In the words of one interviewee:

"We should be speaking about smuggling as we do of the tourist market. There are high seasons and low seasons and prices fluctuate accordingly."¹¹⁵

The demand and supply complicates the relationship between migrants and smugglers, since the former usually fears and dislikes the latter but at the same time is dependent on him/her for reaching the desired destination.¹¹⁶ Migrants appear fully aware of the risks they undertake by using smugglers, including the possibility of being deceived.

"Smugglers are criminals and they only want to gain profit. They don't care about our situation, but what can we do? We need to use their services on our way to the final destination."¹¹⁷

"I told to my husband, as we were caught by the police in a taxi right after we crossed the border, I will never ever travel with taxi. I will walk for days, but I will not enter in a car and risk to be detained."¹¹⁸

Some of the interviewees in the Former Yugoslav Republic of Macedonia, however, admit that they didn't know that there was a risk of being detained in the Reception Centre for Foreigners in Skopje due to their witness role in the court procedure against the smuggler.

"I never heard about this Centre before. If I knew that there is a risk of being detained for 2-3 months because the court procedure is still ongoing, I would never have travelled through the Former Yugoslav Republic of Macedonia"¹¹⁹

Migrants consider smugglers necessary despite various risks and this is linked with the supply and demand argument presented by most of the interviewees representing national authorities. The decision for migrating, as stated by interviewed migrants in the Former Yugoslav Republic of Macedonia, was taken mainly as a result of the life-threatening situations, security risks and violence caused by political crises in the countries of origin, particularly Iraq and Syria.¹²⁰

"It was so dangerous; bombs were falling out at the streets in Tikrit, the place we lived. I couldn't finish my studies; and could not take care of my 10-month old son properly. We decided with my husband to escape from Iraq and to travel to UK, where we already have friends. The living conditions there, both for us and for our baby are much better".¹²¹

The destination is also, at times, unclear. Migrants have often declared uncertainty about what their desired final destination is, though predominantly Austria, Germany, Sweden, UK and the Netherlands feature in the discussions. It is important, however to note that there is a difference between aspiring to reach a destination and actually succeeding.¹²² The immediate concern is usually the next leg of the journey, which begins in Greece and crosses onto the Former Yugoslav Republic of Macedonia and Serbia.

A significant number of migrants who managed to cross the border stated to an interviewed journalist that they had been previously staying in Greece for a longer period of time (working seasonally on the olive/fruit plantations or in the informal economy, but since losing their jobs, they decided to move towards Western European countries, in search of a "better life").¹²³

¹¹⁴ GR/N/02, GR/A/1, GR/A/3, GR/A/4, GR/I/06, GR/A/09

¹¹⁵ GR/N/02

¹¹⁶ GR/M/AF/06

¹¹⁷ MK/M/SY/1

¹¹⁸ MK/M/IQ/1

¹¹⁹ MK/M/SY/3

¹²⁰ MK/M/SY/1

¹²¹ MK/M/IQ/2

¹²² See Dimitriadi (2015) "*Greece is like a door to Europe': Understanding Afghan migration to Greece*". IRMA project, Athens, ELIAMEP.

¹²³ MK/O/1

Migrants also acknowledged that they have family members, close relatives or friends that have managed to arrive in some of the Western European countries.

"Our friend is in Austria. He managed to get there. We want to go there and start all over again. I want to continue with my studies."¹²⁴

"The three of my brothers already went to Stockholm, Sweden and I want to join them. When they left, I decided to stay with my parents in Syria. However, the situation became so bad so I had to also escape from there. Otherwise I would have to fight for the Syrian army".¹²⁵

These migrants expressed hope that those relatives would help them to establish a basis to start their "new life".¹²⁶ Some of them claim that potential family reunification, in addition to the current situation in their own countries, is a contributing reason for their decision to migrate.

3.2 Route segment The Former Yugoslav Republic of Macedonia – Hungary

3.2.1 Dynamics, scale and patterns

According to the draft annual report for 2014 of the National Rapporteur for Trafficking in Humans and Illegal Migration, aside from detections of illegal crossings from Greece (which were the most numerous), detections at the border with Serbia were the third most numerous (140 or 12,37%).¹²⁷

Figure 4 illustrates the main routes of irregular migrants through the Former Yugoslav Republic of Macedonia. In most cases, the direction of movement of the migrants through the country is from south to north (Greece- the Former Yugoslav Republic of Macedonia -Serbia). In the first months of 2014, the most used roads by irregular migrants through the Former Yugoslav Republic of Macedonia were Gevgelija- Veles, Gevgelija - Bogdantsi - Dojran and local roads that lead to these roads. However, as mentioned in the draft report of the National Rapporteur on THB and Illegal Migration, "changes in the routes have been detected in 2014".¹²⁸ The transit routes throughout the Former Yugoslav Republic of Macedonia change particularly based on the position of the police patrols, or the migrants use alternative roads.

Figure 4: Routes of the irregular migrants in the Former Yugoslav Republic of Macedonia.



¹²⁴ MK/M/IQ/1

¹²⁵ MK/M/SY/2

¹²⁶ MK/M/IQ/1

¹²⁷ Draft Annual Report of the National Rapporteur for combating Trafficking in Human Beings (THB) and Illegal Migration (2014); p.12

¹²⁸ Draft Annual Report of the National Rapporteur for combating Trafficking in Human Beings (THB) and Illegal Migration (2014), p.12

Source: *Annual Report of the National Rapporteur on THB and Illegal Migration-draft, 2014*

However, in recent years, an irregular migration flow has been also directed from the Former Yugoslav Republic towards Kosovo, in order to continue further into Montenegro, Bosnia and Herzegovina and Croatia.¹²⁹

The numbers provided by the Sector for Border Affairs and Migration within the Former Yugoslav Republic of Macedonia Ministry of Internal Affairs, show that in 2014 the most common nationalities of those detected crossing the country irregularly have been Syrians, Afghans and Pakistanis (in descending order), although in previous years Albanians have consistently been the most commonly detected.¹³⁰

With regard to entry into Hungary, in 2014, 87% of all detections of illegal border crossings took place on the border with Serbia, as can be observed in Table 6.¹³¹

Table 6: Illegal Border Crossing Broken Down by Border Section.

Border section	2013	2014	% 2014	2015 (I-VII)	% 2015
Austrian	0	0	0	0	0
Budapest + [small airfields]	2	0	0	0	0
Croatian	135	216	0	359	0
Romanian	686	995	2	533	0
Serbian	19.675	43.711	87	103.404	89
Slovakian	0	0	0	0	0
Slovenian	0	0	0	0	0
Ukrainian	68	170	0	266	0
Inland	3.042	4.973	10	10.591	10
Total	23 608	50 065	100	106.938	0

Source: Police.hu (2015), General Report on Border Management, General Directorate of Law Enforcement and (unpublished) Report of the HU National Police HQ for 2015 (I-VII)

The Hungarian National Bureau of Investigation gave a rough estimate that approximately 90% of all irregular migrants crossing the border section with Serbia were detected both in 2013 and 2014.¹³² The Final Report on Joint Operation "Mos Maiorum" from January 2015 notes moreover that "The total number of detected irregular border-crossings involving non-Western Balkan migrants that were reported at the Hungarian external border with Serbia, is

¹²⁹ National Commission for Combating Trafficking in Human Beings and illegal Migration (2012), *National Strategy for Combating Trafficking in Human Beings and Illegal Migration (2013-2016)*, p. 24. <http://www.nacionalnakomisija.gov.mk/mk/nacionalni-akciski-planovi-i-strategii/2013-2016>.

Accessed 3rd of April 2015

¹³⁰ General Directorate of Law Enforcement. Electronic General Report on Border Management. http://www.police.hu/sites/default/files/angol_hatarrendeszet_hk_2014_12_0.pdf. Accessed 16 May 2015.

¹³¹ General Directorate of Law Enforcement. Electronic General Report on Border Management. http://www.police.hu/sites/default/files/angol_hatarrendeszet_hk_2014_12_0.pdf. Accessed 16 May 2015.

¹³² HU/A/1

much higher than the number of detections reported in Western Balkan countries along the Western Balkan route. This indicates that a large part of the migrants en route from Greece or Bulgaria and travelling across the Western Balkans remain undetected.”.¹³³ This suggests that, although a large proportion of migrants travelling via the Western Balkan route remain undetected, the majority would indeed be detected at the border between Serbia and Hungary.

The end of 2014 and the beginning of 2015 were marked by an unprecedented number of migrants from Kosovo irregularly crossing the Serbian-Hungarian border and claiming asylum (see tables 8 and 9 below). This trend reached its peak in the first half of February 2015 when the number of daily apprehensions at the border was between 500 and 1500.¹³⁴ As a consequence of international cooperation between Hungary, Serbia, Kosovo, Germany and Austria, and police procedures by national police forces individually in Hungary and Serbia, the numbers of Kosovans dropped dramatically as of mid-February 2015, although a concurrent flow of migrants entering Hungary via Serbia has continued steadily on this route.¹³⁵ Other nationalities commonly apprehended at the border in 2014 and 2013 include those from Afghanistan and Syria (see Table 7).

Table 7: Total number of migration related border apprehensions and the top 10 nationalities/ citizenships

Citizens of the following countries in 2013	Number of apprehensions in 2013	Citizens of the following countries in 2014	Number of apprehensions in 2014
1. Kosovo	7562	1. Kosovo	24316
2. Pakistan	3798	2. Afghanistan	10428
3. Afghanistan	2894	3. Syria	8988
4. Syria	1325	4. Palestine	1100
5. Bangladesh	704	5. Iraq	602
6. Serbia	300	6. Albania	440
7. Palestine	292	7. Pakistan	409
8. Turkey	226	8. Serbia	373
9. Iran	98	9. Turkey	348
10. Iraq	51	10. Iran	283
<i>Other</i>		<i>Other</i>	
Total	23608	Total	50065

Source: Police.hu (2015), *Electronic General Report on Border Management, General Directorate of Law Enforcement*.

¹³³ Council of the European Union (2015), *Final Report on Joint Operation "Mos Maiorum"*. <http://www.statewatch.org/news/2015/jan/eu-council-2015-01-22-05474-mos-maiorum-final-report.pdf>. Accessed 20 April 2015.

¹³⁴ Rendőrség (2015), *Elfogott migránsok száma az elmúlt harminc napban*. <http://www.police.hu/hirek-es-informaciok/hatarinfo/elfogott-migransok-szama>. Accessed 20 April 2015.

¹³⁵ Frontex (2015), *Situational update on migratory flows in February 2015*. <http://frontex.europa.eu/news/situational-update-on-migratory-flows-in-february-2015-R7HeSD>. Accessed 22 April 2015.

3.2.2 Modus operandi

After migrants cross the southern border into the Former Yugoslav Republic of Macedonia, based on information from the smuggler intermediaries or via social networks, they make contact with facilitators who provide transportation services and direct them towards the northern Former Yugoslav Republic of Macedonia-Serbian border.¹³⁶ As of June 2015 (due to the recent asylum law changes), migrants increasingly use public transportation to move toward northern border, and the role of the smugglers has become more advisory. In most cases, before or upon irregular entry into the Former Yugoslav Republic of Macedonia, smugglers inform the migrants about the existing legislation in the country and the risks of being detained in the Reception Centre for Foreigners for a certain period of time. They are informed of the possible risks during their journey, for example the danger of accidents during walking on train tracks, as well as their right to claim asylum in case they are detained in order to obtain freedom of movement.¹³⁷ In addition, smugglers advise migrants to destroy their documents immediately upon entering the Former Yugoslav Republic of Macedonia in order to avoid possible return on the basis of readmission according to the temporary residence permit given by the authorities in Greece.¹³⁸

Migrants often use hand-written maps and route instructions, given either by the smugglers or the facilitators beforehand. In this regard, police patrols have noticed plastic bags hanging in the woods near the border, which mark the way to the place where migrants meet smugglers or facilitators.¹³⁹ Smuggling operations are usually done in groups of 10-50 migrants.¹⁴⁰

However, it should be noted that, similar to the border between Greece and the Former Yugoslav Republic of Macedonia, the services of smugglers are not always used by the migrants along the whole route. As mentioned in the previous sections of the study, migrants try to cross the borders or to pass a particular part of the way without support of a smuggler, instead using previous knowledge or instructions given by other migrants, as will be seen throughout this section.

For the route section the Former Yugoslav Republic of Macedonia-Serbia-Hungary it reportedly takes about two days when using a combination of transport by car and walking through the border areas:

"During the day they put us in cars and we walked only during the night."¹⁴¹

However, for the entire way from Greece to Serbia, the journey may reportedly take several weeks, primarily by foot but also using other forms of transportation along the way.¹⁴²

"From Greece to Serbia we were just walking (6-10 people group). We followed railways as someone explained to us. It took more than 2 weeks walking only at day. We would stop in villages to buy food. In Serbia police gave us papers to go to the camp. You can stay for 1 week. Around the camp there are taxi drivers. I just told one that I want to go to Hungary. They charge 50EUR per person per trip. We were 4 persons. The driver dropped us on one spot and told us in which direction to walk."¹⁴³

When using smugglers, the transportation is usually organised previously. In this case, facilitators (usually locals), transport the migrants with taxis or trucks through the Former Yugoslav Republic of Macedonia. However, as migrants reported to an Al-Jazeera journalist, their journey within the Former Yugoslav Republic of Macedonia (the route, the quality of the journey, and the use of smugglers) depends on the funds they have available.¹⁴⁴ If the migrants have financial means, they usually pay for taxi transportation (sometimes organised by the smugglers), rent a bike from the locals or buy a bus or train ticket on their way from Gevgelija to Skopje.¹⁴⁵ However, if they are lacking money, or

¹³⁶ MK/A/3

¹³⁷ MK/A/2

¹³⁸ MK/M/SY/1

¹³⁹ MK/A/1

¹⁴⁰ MK/IT/2

¹⁴¹ HU/M/IQ/1

¹⁴² Interview HU/M/GN/10

¹⁴³ HU/M/GN/10

¹⁴⁴ MK/O/1

¹⁴⁵ MK/M/SY/1

do not want to expose themselves to the risk of being apprehended by the police, they usually follow the train tracks from Gevgelija to Skopje by foot. This is extremely dangerous for migrants; since some of them are very exhausted during their journey and do not necessarily hear the moving trains, resulting at times in death.

Taking into consideration the fatal accidents involving migrants traveling through the country, on June 18th 2015, the Former Yugoslav Republic of Macedonia Parliament adopted changes in the Law on Asylum and Temporary Protection.¹⁴⁶ The changes in the law, as further elaborated in the Policy Responses chapter of this study, allow migrants claiming asylum legal stay in the country for three days upon their irregular entry. Migrants can apply for asylum at the border or the nearest police station and are not detained, which allows them to travel legally through the country and avoid dangerous situations. This has positively reflected on the field, since migrants have now begun to use public transportation rather than the dangerous movement on the train tracks or railways.

Along the route through the Former Yugoslav Republic of Macedonia, smugglers provide accommodation in private houses or use public facilities like abandoned railway stations as gathering points for larger groups of migrants brought by car, where they wait until the next team of guides come and take one small group at a time across the border to Serbia. Their stay in these facilities can be prolonged if necessary, for example in times of strengthened border controls.

Although some of the migrants crossing illegally to the Former Yugoslav Republic of Macedonia are detected immediately at the borders upon entry, most of them are detected inside the country. If detected by the police, they are immediately transferred to the closed Reception Centre for Foreigners in Gazi Baba, Skopje, where they would have to stay in a witness role until the court procedure against the smuggler is over:

"We were caught by the police 20 minutes after we entered the taxi. Here I am now, in jail."¹⁴⁷

However, most of the migrants detected by the authorities in the Former Yugoslav Republic of Macedonia lodge asylum claims, either in the local police station (where they are transferred upon detection in order to give a statement), or in the Reception Centre for Foreigners. Having lodged the claim, they are transferred to the open Reception Centre for asylum seekers situated in Vizbegovo village near Skopje, where they would have freedom of movement within the Former Yugoslav Republic of Macedonia. According to the representative of the Asylum Section within the Ministry of Internal Affairs, more than 95% of the asylum claimants depart before having their asylum claims processed and their protection needs determined.¹⁴⁸ They abscond from the Centre within two-three days and continue their way to Serbia, which shows that asylum plays an important role in transiting through the country. It provides a right to stay on the territory and detention is avoided. In this respect, the Former Yugoslav Republic of Macedonia has experienced a sharp rise in asylum claims in the past couple of years.

Similar to the situation in the Former Yugoslav Republic of Macedonia, Serbia is also receiving an increasing number of asylum claims. Many asylum-seekers and refugees move on before their international protection needs have been assessed.¹⁴⁹

When exiting from the Former Yugoslav Republic of Macedonia to Serbia, the most utilised area is Lipkovo, particularly the villages in the northern part of the country, Vaksince and Lojane. If not arranged already by smugglers, migrants are usually offered accommodation by the locals in their houses or stables around the villages, in the immediate vicinity of the border, for financial compensation.¹⁵⁰ The price for an overnight stay costs approximately 5 EUR per person.¹⁵¹ Interviews that were conducted in those villages showed that sometimes the locals who provided accommodation to migrants are not aware that they are committing an offence.¹⁵²

¹⁴⁶ Official Gazzete of R. Macedonia nr.101, 18.06.2015

¹⁴⁷ MK/M/SY/1

¹⁴⁸ MK/A/1

¹⁴⁹ United Nations High Commissioner for Refugees (UNHCR) (2015), *2015 UNHCR subregional operations profile – South-Eastern Europe*. <http://www.unhcr.org/pages/49e48d9f6.html>. Accessed 16 May 2015.

¹⁵⁰ MK/IT/2.

¹⁵¹ MK/A/2

¹⁵² Lembovska, M. (2013) *Analyses of the national policy and practice for dealing with illegal migration and asylum seekers*.

The local population in the Former Yugoslav Republic of Macedonia generally perceives the transit of migrants through the country mainly as a humanitarian issue. On their way from the southern to the northern part of the country, the walking migrants are met with compassion by the local community, with stories emerging of many locals providing migrants with water, food, baby formula, clothes, blankets and other necessities without requesting financial compensation.¹⁵³ Nevertheless, there are cases when the locals try to earn from the migrants and sell them food, water or bikes for unreasonably high prices.¹⁵⁴

On the other hand, there are often locals who are more tangibly connected with the smugglers and agree to assist the smuggling operations towards Serbia.¹⁵⁵ The migrants are usually hidden in the houses or stables until they decide to continue their journey and only go out if they need to buy food, water or other necessities in the local stores. According to the official in the Ministry of Internal Affairs, some of the local citizens in Vaksince and Lojane agree to support the money transfer operations for the migrants. This is usually done in a way that the migrants provide the bank details of the local citizen, who agrees to take over the transaction that comes from the migrant's country of origin for a certain profit.¹⁵⁶ After being accommodated in those villages, migrants await for the signal of their smuggler for the appropriate moment to attempt to cross the border illegally and to continue the journey towards western European countries via Serbia and Hungary.¹⁵⁷

Along the route, guides receive information from "lookouts" about the presence of border patrols.

"The guide [through the Former Yugoslav Republic of Macedonia] didn't speak with us at all. He called someone frequently to 'harmonise the direction', and he also got information if there were any soldiers¹⁵⁸ in the area. He often phoned and informed someone of our location."¹⁵⁹

Moreover, aside from "lookouts", the question of corruption arose many times in the present research and according to one of the interviewees involved in smuggling operations, smugglers usually have information regarding border controls (patrols, times, technology) but only for some countries and the interviewee referred specifically to the Turkish-Iranian border and the the Former Yugoslav Republic of Macedonia-Serbian border.¹⁶⁰

The smugglers (usually leaders of the criminal groups) support the migrants to cross the border and to be illegally transferred to Serbia.¹⁶¹ In most of the cases, the illegal border crossings are done by foot, through the green zone of the Former Yugoslav Republic of Macedonia-Serbian border. As stated by an interviewed journalist, the border between the Former Yugoslav Republic of Macedonia and Serbia is very porous, which makes the illegal crossing of the border relatively easy. The journalists investigated this phenomenon, did the journey themselves and succeeded in crossing that border illegally without any problems.¹⁶²

Once arriving in Serbia, there are 5 main roads and 2 railways crossing the border between Serbia and Hungary; some other side roads are situated near the border but do not cross it. The infrastructure in Serbia is reportedly an important factor in terms of this route:

"This is an established route, it is convenient for smuggling because of the highway from Niš [in Serbia] to Vienna – once migrants enter Serbia they are on the way to the EU. The routes through Bulgaria or Romania are much worse because there is bad infrastructure, mountains, etc. – until there is a new highway, better infrastructure elsewhere, the route will remain the same. The Turkish-Bulgarian and the Turkish-Greek border

¹⁵³ Al-Jazeera documentary on migrant smuggling on the Balkans, 2015: <http://balkans.aljazeera.net/video/al-jazzera-objectiv-putnici> Accessed 28 March 2015.

¹⁵⁴ MK/S/MK/1

¹⁵⁵ MK/A/3

¹⁵⁶ MK/A/3

¹⁵⁷ MK/O/1

¹⁵⁸ This likely refers to border guards, but is the terminology used by the migrant interviewed.

¹⁵⁹ HU/M/IQ/1

¹⁶⁰ GR/S/AF/03

¹⁶¹ MK/IT/2

¹⁶² Al-Jazeera documentary on migrant smuggling on the Balkans, 2015: <http://balkans.aljazeera.net/video/al-jazzera-objectiv-putnici> Accessed 28 March 2015.

determine the entire situation. the Former Yugoslav Republic of Macedonia is a very poor country, they close their eyes, turn their heads away and migrants pour through the country.”¹⁶³

The identified route through Serbia after crossing the border with the Former Yugoslav Republic of Macedonia is around Vranje-Belgrade-Subotica. There are different modes of transport which are typical for certain parts of the route and different “teams” which organise the transport. The way through Serbia is usually organised by smugglers either directly or indirectly. Migrants are transported by cars from the border with the Former Yugoslav Republic of Macedonia or from asylum reception centres in Serbia to Belgrade, Subotica or the border area or may also use public transportation.

Asylum reception centres¹⁶⁴ (for those who register their intent on seeking asylum) and the entire towns and villages around them serve as hubs along the route where contact between migrants and smugglers is established, information is passed on, and services can be accessed. The asylum reception centre Bogovadja in Serbia has a strategic position on this route being situated half-way between Serbia’s southern border with the Former Yugoslav Republic of Macedonia and its northern border with Hungary. “Bogovadja is the ‘lighthouse’ for smuggling and the demand on the migrants’ side to get admitted to this particular centre is high because the centre is along the migratory path of the majority of migrants who want to proceed towards the Hungarian border.”¹⁶⁵ As such, the centre also attracts smugglers and taxi drivers who offer their services in its vicinity. It reportedly happens often that, if allocated a place in another reception centre in the country, based on availability¹⁶⁶, migrants refuse to go there and instead stay in the forests around the centre in Bogovadja without accommodation until they can organise further transport towards the border with Hungary.¹⁶⁷

Subotica and its surroundings in the north of Serbia is an especially important hub and the last stop before entering Hungary: migrants and smugglers meet there, and accommodation is provided to migrants included in the price of the smuggling operation, but food costs extra. Migrants often gather in the woods near the old brick factory in the outskirts of Subotica, waiting for smugglers or for an opportunity to cross the “green border” by themselves.¹⁶⁸

Migrants who make use of smugglers to get to Hungary often travel in larger groups which include families with children, who find it faster and less risky to seek smuggler’s assistance to enter Hungary, rather than walking the section alone.¹⁶⁹ The decision of whether to seek a smuggler or not is especially relevant since the border between Hungary and Serbia is reportedly deemed less risky in terms of physical injuries or violence from police or smugglers, as well as fairly easy to cross:

“You actually don’t need a smuggler to get to Hungary from Serbia.”¹⁷⁰

In Serbia the local population is also increasingly involved in providing services and assisting smugglers in one way or the other, mostly offering ad hoc transportation services.¹⁷¹ As noted by one stakeholder:

“The bad economic situation in local communities in Serbia in the areas surrounding the borders has increasingly led normally law-abiding citizens, especially young people, to engage in facilitating smuggling in one way or another on an *ad-hoc* basis for financial necessity. The whole phenomenon is gradually reaching high proportions - many people see profit in those migrants who are completely unprotected and vulnerable.”¹⁷²

¹⁶³ HU/A/2

¹⁶⁴ There are five asylum and refugee reception centers in Serbia: in Sjenica and Tutin in the south of the country, in Bogovadja and Banja Koviljača in Central-Serbia and in Krnjača, a suburb of Belgrade since in 2014 the refugee reception center in Obrenovac (south of Belgrade) was flooded.

¹⁶⁵ Interview RS/N/1

¹⁶⁶ Police, together with the Commissariat for Refugees and Migration of the Republic of Serbia direct asylum seekers to the Operational centre or to reception centres according to the availability key.

¹⁶⁷ RS/N/1

¹⁶⁸ Nagy D., Szilli T., Halmos M. (2014), ‘Afgán menekültekkel vártuk az embercsempészeket’, *Index* 29 December, http://index.hu/video/2014/12/29/menekultek_a_hataron/; Földes, A. (2015), ‘Ezek a menekültek fenyegetik Magyarországot’, *Index* 9 March, <http://index.hu/belfold/2015/03/09/menekultek1/>; MSF (Medicins sans Frontières) (2015), *Serbia: Asylum seekers and migrants left in cold*. <http://www.msf.org/article-serbia-asylum-seekers-and-migrants-left-cold>. Accessed 28 April 2015.

¹⁶⁹ Or migrants from Kosovo who have no experience of illegal border-crossing and consider contacting a smuggler “the way it is being done”

¹⁷⁰ HU/N/2

¹⁷¹ HU/A/2, HU/N/2

¹⁷² RS/N/1

Currently, the dominant modus operandi is crossing the “green border” between Serbia and Hungary on foot, which occurs in more than 90% of cases according to several authority and civil society interviews.¹⁷³ Another far less represented mode of migrant smuggling is being hidden in vehicles. A notable practice of the smugglers to secure this means of transport, as was stated in one of the interviews of a migrant, is to bribe police in Serbia.

“He [the driver] took us by taxis and asked for 50 Euros per person to bribe the police if they came.”¹⁷⁴

However, it could not be established whether smugglers, when asking for money to bribe the police, do so or rather whether keep the money for themselves.

Because of the relatively danger-free landscape (fields, orchards, woods) and lower risk to physical well-being, the price of being smuggled through the Serbian-Hungarian border section of the route is reportedly the lowest along the Western Balkan route, however, as one stakeholder noted: “The price depends on demand and supply.”¹⁷⁵

When there are many migrants wanting to cross the border, the price is reportedly lower. This is especially true for winter, when a higher number of irregular border-crossings take place because of the features of the landscape and – as there are fewer people outside in the fields around the border – it is easier to stay “invisible.”¹⁷⁶ When the Serbian-Hungarian border is not part of a “full package”, i.e. if migrants are not handed over “from hand to hand” between smugglers in a chain-like manner from the country of origin or from Greece to the country of destination or to Hungary, then the price for this section (between one of the reception centres in Serbia, Belgrade or Subotica and the border area, but not crossing the border) varies from 50 to 200 EUR per person, depending on the season, how much the smuggler charges for services, the mode of transport, the size of the group (e.g. taxi drivers may charge for a ride, regardless of the number of people in the car), etc. The intensity of border controls also determines the prices of smuggling services and it is evident that migrants tend to seek more for assisted border crossing when the border controls intensify, rather than make the attempt on their own.¹⁷⁷ In cases where a driver is used, migrants usually pay for the ride in advance to the driver. In some cases these are local taxi drivers and there is no larger organisation behind it organising the journey; in other instances the drivers are part of “teams” who are either sent to pick up and transport the migrants to the Hungarian border or to recruit the travelling migrants themselves – in both cases, only part of the profit is theirs. In such cases, the main smuggler organiser of the trip keeps the majority of the money.

In cases where smuggled migrants cross by foot, often guides are used to cross the border with the group of migrants. On other occasions, migrants are transported to the border and merely directed towards Hungary by pointing out certain landmarks and/or instructing them how to cross with the help of the maps on their mobile phones or pointing at the village visible on the other side of the border.¹⁷⁸ This was also confirmed by a migrant interviewed in Hungary:

“The smuggler called us and instructed us to jump over a wire fence and follow the footsteps to Hungary.”¹⁷⁹

If apprehended by the border police in Hungary, the majority of irregular migrants claim asylum. Interviewed migrants in Hungary appear to be informed (some by smugglers, some exchange such information with other people on the route) that expressing intent to seek asylum if apprehended by the police in Serbia and/or Hungary is a way to avoid police detention and/or be sent to an open asylum reception centre, from where they could abscond and continue their journey. This reportedly also provides migrants with a limited possibility to legally reside in a country to take a short rest and to organise the onward journey.

For the past two years, Hungarian asylum statistics closely mirror the statistics of apprehensions at the Serbian-Hungarian border section, see Tables 8 and 9. According to an authority interview: “Right now we are facing a situation that migrants who have crossed the border illegally ask for asylum and make use of that legal procedure.”¹⁸⁰

¹⁷³ HU/N/1, HU/A/2, HU/A/3

¹⁷⁴ HU/A/AF/2

¹⁷⁵ HU/N/2

¹⁷⁶ HU/N/2

¹⁷⁷ HU/N/2

¹⁷⁸ HU/N/2

¹⁷⁹ HU/M/AF/2

Table 8: Illegal Border Crossing by Nationality, 2013 – July 2015.

Nationality	2013	2014	% 2014	2015 (until July)	%2015
Kosovar	7.562	24.316	49	27.258	28
Afghan	2.894	10.428	21	32.394	23
Syrian	1.325	8.988	18	33.000	28
Palestinian	292	1.100	2	925	1
Iraqi	51	602	1	4.646	4
Albanian	207	440	1	N/A	N/A
Pakistani	3.798	409	1	8.054	7
Serbian	300	373	1	N/A	N/A
Turkish	226	348	1	N/A	N/A
Iranian	98	283	1	975	1
Bangladeshi	704	264	1	1.906	2
Nigerian	N/A	N/A	N/A	593	1
Cameroonian	N/A	N/A	N/A	555	0
Other	6.151	2.514	5	5.381	5
Total	23.608	50.065	100	116.626	100

Source: Police.hu (2015), *Electronic General Report on Border Management*, General Directorate of Law Enforcement, (unpublished) Report of the Hungarian National Police HQ

¹⁸⁰ HU/A/3

Table 9: Hungarian Asylum statistics

Nationality	2013	Total Number of Applications in %	2014	Total Number of Applications in %
Kosovar	6.212	32,87%	21.453	50,15%
Afghan	2.328	12,32%	8.796	20,56%
Syrian	977	5,17%	6.857	16,03%
Palestinian	224	1,19%	875	2,05%
Iraqi	63	0,33%	497	1,16%
Pakistani	3.081	16,30%	401	0,94%
Iranian	61	0,32%	268	0,63%
Nigerian	455	2,41%	257	0,60%
Bangladeshi	679	3,59%	252	0,59%
Cuban	32	0,17%	209	0,49%
Other	4.788	25,33%	2.912	6,81%
TOTAL	18.900	100,00%	42.777	100,00%

Source: Office of Immigration and Nationality (OIN) (2015), Statistics.

Several migrants confirmed that, once in Hungary, they approached the first local resident they encountered (e.g. farmer, bus driver) to notify the police and a police car would show up soon after to collect them. Others' approach was to go to the police station of their own accord to register their intent to seek asylum or wait for the police to come collect them.

"[Upon entering Hungary] We were very tired, sat on a bench and waited for a police officer to come. After 30 minutes, a police officer came – we were taken to the police station and told to go to Bicske. We got many documents and were told that one of them is a document for travel and we also got a map."¹⁸¹

"We walked on and a car came – stopped – the driver told us to wait there, called somebody, a police car full of Syrians came and picked us up shortly after."¹⁸²

This phenomenon may partly be explained by the fact that in the last two months of 2014, due to the lack of capacity to accommodate all applicants and provide transportation for them, the Office of Immigration and Nationality provides asylum seekers with a confirmation of application of asylum, which entitles them to use public transportation free of charge to go on their own to the open reception centre allocated for them, where they should register within 24 hours.¹⁸³ However, reportedly many migrants use this opportunity to abscond towards Austria (see Secondary movement from Hungary in the Other trends section).

Finally, smuggling networks may obtain forged documents for the smugglers/organisers (if they are not Hungarian citizens or residents) and/or for irregular migrants during their stay in Hungary. Smuggled migrants, though, travel to

¹⁸¹ HU/M/AF/2

¹⁸² HU/M/SY/6

¹⁸³ HU/A/1

Hungary undocumented in more than 90% of cases.¹⁸⁴ This is despite the fact that, according to one migrant interview:

"In some villages in Serbia, for a price of 150 EUR you can get a fake identity card from one of the EU countries."¹⁸⁵

The National Bureau of Investigation also mentioned a number of documented cases of document fraud related to obtaining visas in Hungarian Embassies abroad by using forged supporting documents.¹⁸⁶

3.2.3 Supply side: Smugglers and their organisation

In the case of the Former Yugoslav Republic of Macedonia-Hungary section of this route, the findings are similar from the research conducted in Greece, which leads to the interpretation that migrant smuggling along the Western Balkan route falls in the typology of (1) partial smuggling and (2) horizontally organised chain smuggling: migrants travel on certain parts of the route without the assistance of smugglers and make contact with smugglers in certain hubs, most often close to state borders (1) or they are passed from one smuggler to another (2).¹⁸⁷ Migrant smuggling is carried out by organised criminal groups that lack a pyramid-like mafia-style organisation but are rather composed of smaller scale networks organising *ad hoc* activities.¹⁸⁸

The profile of the smugglers that operate in the Former Yugoslav Republic of Macedonia has changed compared to the previous years. Up until 2011, mainly nationals of the Former Yugoslav Republic of Macedonia were involved in smuggling operations facilitating Albanian nationals to enter Greece and work there on the black market. As of 2012, however, foreign nationals increasingly play a leading role in smuggling operations, mostly originating from Afghanistan and Pakistan.¹⁸⁹ According to the authorities of the Former Yugoslav Republic of Macedonia, most reside outside the country and operate as "leaders" of the smuggling operations from Turkey or Greece.¹⁹⁰ In addition, there are foreign individuals who illegally reside in the Former Yugoslav Republic of Macedonia either without documents or with fake EU documents, and support the smuggling operations for profit. The officials from the Ministry of Internal Affairs who are involved in the investigations of smuggling operations, claim that nationals of the Former Yugoslav Republic of Macedonia are exclusively involved in facilitating these activities, either by providing transportation to the northern part of the country or by providing accommodation in the Vaksince and Lojane villages near the Serbian border, for financial compensation. The information from the relevant documents as well as from the interviews conducted shows that although there is no distinction between "smugglers" (organisers of the smuggling operations) and "facilitators" (supporters of the smuggling operations) in the Macedonian law (see Policy Responses section),¹⁹¹ there are different types of smugglers operating in the Former Yugoslav Republic of Macedonia, namely:

- ★ Smugglers of foreign origin (Pakistani or Afghan), involved with organised criminal groups from other countries (usually from Turkey or Greece).¹⁹² They act as leaders of smuggling operations within the country, staying illegally in the Former Yugoslav Republic of Macedonia. They are involved in the smuggling operations either because they have been "forced by the criminal groups due to monetary debts"¹⁹³ or because they aim to make profit through smuggling operations.¹⁹⁴

¹⁸⁴ HU/N/1, HU/A/3

¹⁸⁵ MK/M/SY/2

¹⁸⁶ HU/A/1

¹⁸⁷ Bilger, V. et al. (Forthcoming), *A descriptive typology of human smuggling*. Vienna: ICMPD.

¹⁸⁸ Baird, T. (2013), 'Theoretical approaches to human smuggling', *DIS Working Paper* 2013: 10), also HU/A/2.

¹⁸⁹ MK/A/3

¹⁹⁰ Ibid. The information was also confirmed by MK/A/4

¹⁹¹ The criminal acts for smuggling migrants are described in the Criminal Code of R. Macedonia, Article 418 b and Article 418-c.

¹⁹² Interview MK/A/3

¹⁹³ National Commission for Combating Trafficking in Human Beings and illegal Migration (2012), National Strategy for Combating Trafficking in Human Beings and Illegal Migration (2013-2016), p. 24. <http://www.nacionalnakomisija.gov.mk/mk/nacionalni-akciski-planovi-i-strategii/2013-2016>.

Accessed 03 April 2015

¹⁹⁴ MK/A/4

- ★ Local smugglers (mainly nationals of the Former Yugoslav Republic of Macedonia) who operate from inside the country and are exclusively involved in the facilitation of the smuggling processes, providing transportation and accommodation to irregular migrants.¹⁹⁵
- ★ Smugglers with unknown nationality or using false EU documents, who enter the country once or several times in order to conduct the smuggling operation and then leave the country.

Smugglers in the Former Yugoslav Republic of Macedonia, according to the officials of the Ministry for Internal Affairs, have well established practices.¹⁹⁶ Mostly, specifically those who reside in the Former Yugoslav Republic of Macedonia for a longer period of time, know the terrain well and have contacts with the locals (facilitators) that agree to conduct the transportation services or provide accommodation to the smuggled migrants.

The Unit for Combating trafficking in human beings and smuggling of migrants within the Former Yugoslav Republic of Macedonia Ministry of Internal Affairs, in cooperation with the Sector of Border Affairs and Migration aims at collecting information and identifying persons and groups that occur as perpetrators of crimes related to the smuggling of migrants. Table 10 shows the available statistics of the cases of smuggling migrants as well as the number of apprehended smugglers and criminal groups in the Former Yugoslav Republic of Macedonia for the period 2009-2014.

Table 10: Number of cases of smuggling migrants, number of apprehended smugglers and criminal groups in the Former Yugoslav Republic of Macedonia for the period 2009-2014.

	2009	2010	2011	2012	2013	2014
Number of smuggling migrants cases *nr. of smuggled migrants per case might be higher	31	27	27	39	52	94
Number of perpetrators	53	58	44	70	98	126
Apprehended organised criminal groups	5	6	2	1	5	4

Sources: Lembovska (2013), *Analyses of the national politics for combating illegal migration and asylum seekers*; Official MoI reports on irregular migration (2013); Annual Reports of the National Rapporteur on Trafficking in Human Beings and illegal Migration (2013 & 2014- draft).

Similarly, to the Former Yugoslav Republic of Macedonia and Greece, the main organisers of migrant smuggling operations between Serbia and Hungary do not personally take part in the operation, but manage it from afar by phone with each other and the mid-level organisers, who typically include drivers, recruiters and mediators. Thus the setup is similar (but not identical) to that between Greece and the Former Yugoslav Republic of Macedonia (see Figure 3). One authority interview described the network similarly, in terms of it being a loose network where each person is only in contact with the next link in the chain, but is not necessarily aware of the other people involved:

"There is someone for each particular task and it is a very loose network so mostly they don't know each other personally and operate between two borders."¹⁹⁷

However, there tends to still be a "top man" or "main organiser" who then employs recruiters or other "service providers":

"The organisers themselves consist of networks on national levels who relate to one another – those are local people primarily. The smugglers themselves work on marketing through the recruiters and popularise their services this way."¹⁹⁸

¹⁹⁵ MK/A/2

¹⁹⁶ MK/A/3

¹⁹⁷ HU/A/3

¹⁹⁸ HU/A/3

Recruiters who proactively offer services to migrants in and around reception centres and those guides walking with migrants across the Serbian-Hungarian border are usually the same nationality as migrants and have often also gone through the asylum process in Hungary themselves.¹⁹⁹ This is important because it allows the smugglers to build rapport with the migrants, and also allows the guides to blend in with the migrants if apprehended by the police while crossing the border.²⁰⁰ According to a Serbian NGO, these guides and recruiters have gradually become part of the system:

"These people are the core of the system, a link that makes smuggling possible. Because they have been through asylum procedure, they gradually got to know the society, the system, some local languages and English and were often asked by newcomers for help. Initially, some of them provided the assistance without financial interest or were offered compensation for their services without requesting it. However, as the demand for this type of facilitator grew, they gradually become profit-oriented thus actively entering the smuggling trade. This seems to be a natural process for how one becomes a recruiter. For migrants, these smugglers are necessary to alleviate their fears and the risks of the travel. Increasingly, the agents [recruiters] are residing either in Serbia or other countries in the region, making rounds along the well-trodden routes that they themselves had used. Sometimes, they even report themselves to the police to be returned to the country of departure (e.g. Greece) in order to start new round of recruitment. They are either in the asylum system or in some grey area, in the meantime already having learnt some local languages and established contacts."²⁰¹

One Hungarian authority described an example of how the various people involved in the smuggling operation interact:

"The main organiser is in contact with the person who lives in Budapest but is a migrant registered on an asylum claim (i.e. Afghani national) whose task is to recruit the migrants who want to go to western European countries. For example, they collect 8 people who want to go to three different EU countries. He calls the mid-level organiser in Slovakia who recruits drivers in Slovakia, for these 3 destinations, one car to Austria, one car to France and one car to Germany, and gives GPS co-ordinates of the location where they have to pick-up the migrants and mobile phones. In these mobile phones are SIM cards with only one number saved and they are prohibited to initiate phone calls in the territory of Hungary."²⁰²

It is thus mid-level organisers who carry out transporting migrants from Serbia to Hungary or onwards to other EU countries. Usually smuggling networks (often referred to as "teams") have established connections with other "teams" on the other side of the border, but these may vary and be "project-like": e.g. if a "team" in Serbia has a group of migrants to smuggle across the border, the organiser may look for any "team" in Hungary, Austria or Slovakia that will take the group over once they arrive in Hungary.²⁰³

A recent phenomenon is that people who have certain ties, for example being a member of the Kosovar or Serbian diaspora, are often involved as drivers. Organisers are mostly men, but sometimes their girlfriends are involved as mediators, escorting migrants to the accommodation, or facilitating cash payment transactions between the organisers in Serbia and Hungary by legally crossing the border in a private car.

In Hungary, the smuggling organisation is often tied between the countries of transit (Serbia), entry to EU (Hungary) and destination (e.g. Austria), so it is not possible to distinguish between those smugglers operating upon this section of the route and those organising secondary movement (further discussed in the Other trends section). The largest group of smugglers (with whom the Hungarian National Bureau of Investigation has experience) are Serbian nationals who enjoy residence rights in Hungary, mostly based on family ties, see Table 11. They are often the main organisers of the irregular journey from Hungary to onward destination countries. However, the number of perpetrators who are Hungarian nationals is reportedly increasing as many Hungarians have grown as mid-level organisers. They

¹⁹⁹ HU/A/1, HU/N/1

²⁰⁰ HU/A/1, HU/A/2

²⁰¹ RS/N/1

²⁰² HU/A/1

²⁰³ HU/A//2

collaborate with the main organisers in Serbia and destination countries. Their task is recruiting the drivers and organising accommodation for smuggled migrants in the territory of Hungary (see Table 11 for more information on smuggler nationalities). They also have personal meetings in Serbia with the main organisers to agree on the changes in modus operandi after the capture of migrants in illegal transportation.²⁰⁴

²⁰⁴ HU/A/1

Table 11: Human smuggling crimes broken down by main nationalities, Apprehended Smugglers in Hungary, by nationality

Nationality	2013	2014	2015 (until July)
Serbian	123	223	206
Hungarian	101	116	109
Romanian	49	41	69
Kosovo	33	23	23
UNK	N/A	N/A	31
Italian	N/A	N/A	20
Bulgarian	3	20	16
Slovak	3	18	13
German	13	15	9
Syrian	6	14	N/A
Ukrainian	6	12	N/A
unknown	7	12	N/A
Turkish	9	11	11
other	65	88	88
Total	418	593	N/A

Source: *Electronic General Report on Border Management, General Directorate of Law Enforcement Hungary 2013-2014, and (unpublished) Report of the Hungarian National Police HQ for 2015*

Organisers of smuggling networks are well informed about policy and operations directed at migrant smuggling by following news related to (border) police operations, learning from the experiences of previous groups of migrants smuggled by their “team” or another “team” and from “lookouts” that monitor movement of police patrols in the border area. Therefore the “teams” modus operandi changes fast in response to this information.²⁰⁵

Similar to the case in the Former Yugoslav Republic of Macedonia, taxi drivers in Serbia are often utilised by migrants for transfers to the border with Hungary due to their obvious role in providing transportation services without having the authority to ask for identity documents. They are however, only one segment of the smuggling scene, but do not operate as part of broader networks and are not the core of the system, although they may at times be employed by a smuggler or “top man”.

3.2.4 Migrants and their families/communities

As noted by multiple interviews with authorities and civil society stakeholders in Hungary, migrant smuggling exists because for the people on the move there are limited legal channels of entry into the EU.²⁰⁶ Moreover, it is further driven by supply and demand market forces, according to interviewed stakeholders:

²⁰⁵ HU/A/1, HU/A/2, HU/A/3

²⁰⁶ HU/N/1, HU/N/2, HU/A/2, RS/N/1

"There is a demand for certain types of services. Based on the demand and the possible financial gain there will be the other side, there are some that offer illegal services. As long as there is demand, there will be service providers."²⁰⁷

However, the market is clearly distorted, with a lack of information given to migrants and the possibility that smugglers may take advantage of the situation:

"There is an economic need that the 'smuggling market' fills, but it is a distorted market. The social control mechanisms that would guarantee the fairness of this market are lacking, the actors of the market lack information, so a market monopoly situation develops. This monopoly can be used for violence, exploitation and this yields the negative effects that we see."²⁰⁸

The absence of access in a legal and safe manner is, in fact, crucial. The facilitated journey can at times be the only option of reaching the EU, and then continue to preferred destinations, mainly Germany, Sweden, Austria and the Netherlands (see the Other trends section for more information on secondary movement from Hungary).

With this in mind, migrants thus consider smugglers a "necessary evil".²⁰⁹ They are aware that they need them, but there is a general mistrust of the smugglers. On occasion, they take measures to ensure their safety and the safety of the money they invested in the journey (e.g. paying only half of the fee in advance, leaving the remaining fee with a third-party as a guarantee, taking a photograph of the licence plates of the vehicle they get in, calling the smuggler who was the previous in the chain to verify the identity of the "connection", etc.). Nonetheless, once on the road, migrants have little control over how the smugglers treat them:

"I met a lot of migrants who at first don't trust anyone, but once they choose a smuggler and pay, they start to believe everything. So, I believed as well."²¹⁰

"I haven't trusted anyone since I left Syria."²¹¹

"They are criminals."²¹²

Yet, driven by the need to reach their destination, migrants do seek the services of smugglers. When looking for a reliable smuggler in countries of departure, migrants seek recommendations from other migrants from their respective regions of origin or departure.²¹³ The decision of which smuggler to choose if several are available depends on several factors, which could include: recommendations from other migrants; knowing a smuggler personally from before; being of the same nationality as the smuggler and thus being able to communicate and having a certain amount of trust; the promised mode of transport (not having to walk too much); and the price. Moreover, they also base their choice of destination country and accordant route not only on the availability of funds for the journey and offers by smugglers, but also based on risks they are aware of along different routes:

"They [smugglers] were asking for various amounts of money for various destinations and means of transport. There was an option to go by plane, it should have been included in 7,000 EUR, or to Italy by boat, but I heard many died so I didn't want to go."²¹⁴

On the Western Balkan route, unlike on the Central Mediterranean route, migrants do not perceive a tangible risk of death. However, there are indications that migrants suffer a wide range of abuses on this route as well, from being misinformed or defrauded, to being robbed or losing their lives.

The Western Balkan route is "a market with imperfect information"²¹⁵ with regard to the service being provided by the smugglers: the length of the journey, the mode of transport, the specificities of the route, the location where

²⁰⁷ HU/A/3

²⁰⁸ HU/N/1

²⁰⁹ HU/A/2

²¹⁰ HU/M/IQ/1

²¹¹ HU/M/SY/7

²¹² HU/M/SY/6

²¹³ HU/M/GN/10; HU/M/IQ/1

²¹⁴ HU/M/SY/6

accommodation is provided, the next mid-level organiser in chain, the contact information of the main organiser, etc. This is due to fear of authorities but it also puts migrants in a vulnerable position and facilitates control over them. Interviewed migrants mentioned deception by organisers, who guarantee the trip to the destination country upon the full advance payment, but then lose touch before the migrant reaches the destination country, accidents due to overcrowded vehicles on route through Serbia²¹⁶, misinformation about the length of journey (e.g. initial information of it being 4-5h walking when in reality it took 20h from the Former Yugoslav Republic of Macedonia to the border with Hungary with a combination of transport and walking) and the mode of transport (having to walk instead of being transported by vehicles or public transport as previously informed), suffering injuries²¹⁷ (e.g. risk being run over by a train, walking in freezing water, exhaustion, etc.), traffic accidents²¹⁸ and being abandoned by smugglers when the police shows up. Smugglers generally see migrants primarily as a source of profit. They often transport migrants in inadequate and inhumane conditions; they risk migrants' lives, often blackmail people who cannot pay, and generally treat them as if they were goods that need to be transported.²¹⁹

Moreover, on the same route section, there have also been reported incidences of police harassment. A recent Human Rights Watch report, based on interviews with 81 migrant in Serbia between November 2014 and January 2015, calls attention to various cases of migrants and asylum seekers experiencing a range of abuses at the hands of Serbian police, and being summarily returned to the Former Yugoslav Republic of Macedonia without adequate procedures.²²⁰ However, in an interview following the publication of the report, the Executive director of the Serbian NGO Asylum Protection Centre APC/CZA²²¹ stated that although the report does pin down the main issues pertaining to migrants in Serbia, according to their experience, cases of police harassment as well as push-backs by the police to the Former Yugoslav Republic of Macedonia have occurred rather sporadically in the border areas with the Former Yugoslav Republic of Macedonia and Hungary.

"We do not get an impression that there is systemic police harassment on a large scale – it's not a general characteristic of the system at least. Sporadic complaints about deprivation of money and harassment by police that have reached us occurred mostly in the south of the country in the area of Vranje. Our assumption is that there are individuals in the police force who do abuse the vulnerable position of irregular migrants. In the beginning of 2014 when the influx of migrants was high, we had complains about migrants being deprived of their money in the area around Subotica. What happens in the border areas is a dark zone for us. Migrants wanting to leave Serbia are reluctant to report their problems. Undocumented people, being on the 'other side of the law' in the countries on the move are in a very vulnerable position. They can't report exploitation or seek protection."²²²

On the route section between Serbia and Hungary, but also through the Former Yugoslav Republic of Macedonia, some migrants reported the presence of gangs stealing money and mobile phones, beating up those who refuse to "cooperate".

"I had a small child [of the family with which he was travelling] in my arms. They didn't hurt me, but the others were handcuffed. It became clear that they were robbers not police – they took everyone's money. If we didn't

²¹⁵ Bilger, V. et al. (2006), 'Human smuggling as a transnational service industry: Evidence from Austria', *International Migration* 44 (4): 59-93; Heckmann, F. (2007), *Towards a better understanding of human smuggling*. <http://www.ssoar.info/ssoar/bitstream/handle/document/35288/ssoar-2007-heckmann-Towards/a/better/understanding/of.pdf?sequence=1>. Accessed 20 April 2015.

²¹⁶ N1 info (2015), 'U kombiju 54 migranta, najteže povređeni u Beogradu i Nišu', naslovi.net 24 February, <http://www.naslovi.net/2015-02-24/n1-info/u-kombiju-54-migranta-najteze-povredjeni-u-beogradu-i-nisu/13554157>.

²¹⁷ MSF (Médecins sans Frontières) (2015), *Serbia: Asylum seekers and migrants left in cold*. <http://www.msf.org/article-serbia-asylum-seekers-and-migrants-left-cold>. Accessed 28 April 2015.

²¹⁸ hvg.hu (2015), 'Embert találtak a csomagtartóban a rendőrök', HVG 2 March, <http://hvg.hu/itthon/20150320/Embert/talaltak/a/csomagtartoban/a/rendor>;

DW (2015), 'Dozens of illegal immigrants hurt in Serbia van crash', Deutsche Welle 24 February, <http://www.dw.de/dozens-of-illegal-immigrants-hurt-in-serbia-van-crash/a-18276293>.

²¹⁹ RS/N/1

²²⁰ Human Rights Watch (HRW) (2015), *Serbia: Policing Abusing Migrants, Asylum Seekers*. <http://www.hrw.org/news/2015/04/15-serbia-police-abusing-migrants-asylum-seekers>. Accessed 16 May 2015.

²²¹ Asylum Protection Center APC / CZA is a Serbia based NGO providing legal, psychosocial and other support and protection to asylum seekers, refugees and displaced persons

²²² RS/N/1

comply, they stripped us naked and took it from us – a couple was beaten because they didn't want to hand over their money. I didn't understand the language the robbers spoke.”²²³

Another serious risk for the migrants, as reported by the BBC and shared by other media sources, is the possibility that they are kidnapped by gangs of robbers near the town of Kumanovo and imprisoned until they pay ransom. According to the media, migrants have also witnessed several rapes.²²⁴ The information about such forms of exploitation was also confirmed by the interviewed smugglers in the Former Yugoslav Republic of Macedonia. They confirmed that they have witnessed similar situations in the southern part of the country, where foreign nationals, infiltrated into migrant groups, keep the migrants in abandoned buildings until they pay ransom.²²⁵

Further risks the migrants faced on this route section include the risk of sexual exploitation of migrant women and the risk of separation of families.²²⁶ According to the interviewees, there were also situations when young girls have been offered by other migrants for sexual services in the casinos near Gevgelija.²²⁷ Interviewed NGOs both in Serbia and Hungary expressed concerns over the disappearances of a large number of unaccompanied minors from the asylum systems while transiting through the countries, i.e. from open asylum reception facilities (without guardianship) as indicative of facilitated smuggling and potential exploitation and trafficking in persons.²²⁸

Increasingly, news articles reporting deaths of smaller groups of migrants on the route section confirms that the risk to life is present on these journeys due to variety of risks smuggled migrants are exposed to.²²⁹ As noted previously, for those migrants who travel by foot along the train tracks through the Former Yugoslav Republic of Macedonia, they do risk their lives. In 2014, 8 migrants lost their lives on the train tracks in the Former Yugoslav Republic of Macedonia.²³⁰ In April 2015 alone, 14 migrants were killed by a train.²³¹

²²³ HU/M/AF/2

²²⁴ B92 (June 2015). “Illegal migrants abused in Macedonia – reports” http://www.b92.net/eng/news/region.php?yyyy=2015&mm=06&dd=05&nav_id=94351. Accessed 15 June 2015.

²²⁵ MK/S/MK/2

²²⁶ RS/N/1, HU/M/NG/3

²²⁷ MK/S/MK/1

²²⁸ RS/N/1, HU/N/1

²²⁹ DW (2015), ‘Dozens of illegal immigrants hurt in Serbia van crash’, Deutsche Welle 24 February, <http://www.dw.de/dozens-of-illegal-immigrants-hurt-in-serbia-van-crash/a-18276293>; BBC (2015), ‘Migrants killed by train on Macedonia railway track’ 24 April, <http://www.bbc.com/news/world-europe-32445926>;

Human Rights Watch (HRW) (2015), Serbia: Ploicing Abusing Migrants, Asylum Seekers. <http://www.hrw.org/news/2015/04/15-serbia-police-abusing-migrants-asylum-seekers>. Accessed 16 May 2015.

²³⁰ Daily.mk, (2014), “2014 -Most dangerous year for the migrants”, <http://daily.mk/makedonija/2014-godina-najsmrtonosna-migrantite> . Accessed 28 March .2015

²³¹ Associated Press (2015), Police: 14 migrants killed by train in Macedonia, <http://www.usatoday.com/story/news/world/2015/04/24/migrants-killed-train/26289237/>. Accessed 24 April 2015

3.3 Other relevant recent trends on the selected route sections

3.3.1 Secondary movements from Greece

Greece, as discussed earlier is fundamentally a transit corridor. Though it acted as a destination country in the past, the economic crisis of recent years, along with the harsh policy of detention and deportation and the measures at the land border, pushed more migrants to consider the country as a temporary path on the way to other EU Member States.

Though the Western Balkan route has been the focus of the present report, the dominant exit site from Greece is still through the ports of Patras and Igoumenistas, to Italy. This is an established route, and one that, similar to the land border exit, allows the option to leave in an organised manner (via smuggler) or attempt to cross alone, thus reducing the cost of the journey. Smugglers utilise lorries to transport migrants, with an average cost of 3,000 EUR.²³² Because it is expensive, and the chances of being caught are high, many migrants opt to try boarding the ferry alone. It was a common sight until 2012 to see Afghans and sub Saharan Africans hiding amongst the trees along the main road parallel to the port, waiting to jump on board lorries and trucks while they were stopped at red lights. The aim was to remain hidden until the lorry disembarks on an Italian port, passes inspection and exits the harbour. In practice, this means that migrants must successfully bypass the Coastguard and Hellenic Police checks at the harbour on the Greek side, but also avoid arrest in the corresponding Italian port. In some cases, crossing takes place with small boats or dinghies, whereby the migrant needs to successfully bypass the sea patrols in the territorial waters between Greece and Italy under the umbrella of Frontex. If apprehended in the Italian harbour with a direct connection to a respective Greek harbour, the migrant is immediately returned. A fast track processes is followed, independent of Dublin II, based on a bilateral agreement between Italy and Greece (Readmission Agreement 1999), which regulates the return process.

However, since 2012 controls have tightened significantly, with additional funding, personnel and equipment making the entry, hiding and successful passage to Italy extremely difficult for migrants and particularly those who attempt to cross alone. In response to the increased difficulty of the sea crossing, the Western Balkan route has opened up.

Another option for departing the country, not covered in the present report, is via air travel. This particular route depends on the country of destination and financial ability of the migrant because it depends on airport controls and the financial cost of travel documents.²³³ In Greece departures do take place from the Athens airport, but mainly they are from small airports during the height of the tourist season (August) and (depending on the quality of passports and the migrant's appearance), they may manage to pass through the security checks. Overall, however, the air route is the most expensive, with prices ranging from 6000-7000 EUR and also is quite high risk because the majority is caught.

3.3.2 Secondary movement from Hungary

The main EU target country for migrants travelling from the Former Yugoslav Republic of Macedonia towards Hungary, via Serbia, according to an interviewed journalist, is Germany.²³⁴ However, migrants have also testified that their desired destination countries are Austria,²³⁵ the United Kingdom²³⁶ and other Western European countries, often chosen based on where migrants have family or friends, as was also noted in interviews conducted for this study:

"I am traveling with my husband and with my 2 year old son. We want to go to Austria since our friend is there. When we manage to adapt there, I will bring my 4 year old daughter over, who stayed in Baghdad with our relatives."²³⁷

²³² GR/A/03

²³³ Documents are not necessarily falsified. Interviewees mentioned that at times real passports are used by migrants who resemble in physical characteristics those portrayed on the passport picture.

²³⁴ MK/O/1

²³⁵ MK/M/IQ/1

²³⁶ MK/M/SY/1

²³⁷ MK/M/IQ/1

"I studied English literature when I needed to escape from Kobani, since I withdrew from the army. I plan to go to the UK and continue studying."²³⁸

After having applied for asylum upon entering Hungary, migrants have free access to public transport within the country for 24 hours. The purpose of this is to make it possible for migrants to arrive to their allocated reception centres. During this time, instead of going to the designated asylum reception centre, they may get in touch with smugglers, often the same ones who organised their entry into Hungary, and proceed towards further destination countries within the EU by cars, taxis, buses or train. The organisers give them detailed instructions on the procedure beforehand.²³⁹

People recently smuggled into Hungary often stay in the country only as long as it takes for their organisers to arrange further transportation towards the destination countries, usually not longer than 2-3 days, maximum a week.²⁴⁰ During this time, they reside either in an open asylum reception centre, or as is the recent trend, in hostels and hotels booked by the organisers.²⁴¹ In some cases, recruiters approach migrants in reception centres to arrange their trip from Hungary. After collecting a group of migrants, the recruiter contacts the mid-level organiser who organises a vehicle for transporting the group.²⁴²

For the onwards journey to the intended destination, the most common modus operandi is transport by motor vehicles. However, it is becoming clear that more varied of means of transport is being used:

"From the classic clandestine modus operandi, there was a lorry driver and the migrants behind hidden, there was a shift to more and more open activities like taxi drivers just taking 3-4 passengers from one point of the country to another and they don't really have the intention or the capacity to hide them."²⁴³

However, the vehicles migrants are driven in can be dangerous due to overcrowding,²⁴⁴ and some of the other risks mentioned in the section on the route from the Former Yugoslav Republic of Macedonia to Hungary also apply to this route section.

In February 2015, an international train to Vienna and Munich was used to transport migrants. In particular, 250 Kosovar migrants travelling without travel documents were removed from a Munich-bound RailJet train at a railway station in Győr, western Hungary.²⁴⁵ Thus a variety of services can be used, not always involving people who actively take part in the smuggling operation. In the words of one authority interviewee: "That's also a moving target how they actually travel."²⁴⁶

In some cases, mid-level organisers use carpooling (sharing) to organise migrants' journey to Western Europe.²⁴⁷ Members of the smuggling groups get in contact with drivers through car-pooling (sharing) advertisements. For example, the organiser asks the driver to take his two friends to Munich and pays 200 EUR. Such arrangements are dangerous for the drivers, who are bona fide travellers, because if intercepted by authorities, they can face charges for migrant smuggling. In some other cases, members of organised criminal groups also registered car-pooling ads on the websites.²⁴⁸

Means of transport can also determine prices. For example a Hungarian driver that facilitates a migrant in reaching Austria from Budapest, will likely ask for 150 EUR per person. If it is a standard car, they will usually transport four

²³⁸ MK/M/SY/1

²³⁹ HU/A/1

²⁴⁰ HU/N/1, HU/N/3

²⁴¹ HU/A/1

²⁴² HU/A/1, HU/N/2

²⁴³ HU/A/3

²⁴⁴ hvg.hu (2015), 'Embert találtak a csomagtartóban a rendőrök', HVG 2 March,

<http://hvg.hu/itthon/20150320/Embert/talaltak/a/csomagtartoban/a/render>; MTI (2015), 'Embertelen körülmenyek között csempésztek át a magyar határon 28 afgánt', HVG 25 February, <http://hvg.hu/itthon/20150225/Embertelen/korulmenyek/kozott/csempesztek>.

²⁴⁵ Hungary today (2015), 'Immigration: 250 Kosovar migrants taken off from Munich-bound train', <http://hungarytoday.hu/cikk/immigration-250-kosovar-migrants-taken-munich-bound-train-40183>, Accessed 22. April 2015.

²⁴⁶ HU/A/3

²⁴⁷ HU/A/1, HU/A/3

²⁴⁸ HUA/1

persons, in a mini-van nine persons or if a using a van, they might hide 25 persons in the luggage area. The driver receives the lowest amount, and they are paid by the organisers only after the successful transfer when the driver arrives back to Hungary.²⁴⁹ In terms of costs, for example, from Serbia to Germany, an indicative price is 1,500-2,000 EUR. In this case, money is paid by the migrant 50% in advance and 50% upon arrival.

"Everyone who pays the money to smugglers does so in order to reach their destination country (Austria, Germany, Sweden), not Hungary. All the money stays with the 'office' even if you don't. Most of us are still happy to reach the EU safely."²⁵⁰

Among the reasons for selecting particular final destination countries, other than family ties, migrants mention previous stays in the respective EU country,²⁵¹ as well as information they received about the asylum policy in the destination country:

"I wanted to go to Austria, but I heard that Austria currently sends all Afghans back. I will probably go further to Germany."²⁵²

Overall, Hungary appears to have evolved into a country of transit for those who seek to reach other EU member states and a country of destination for those (e.g. Syrians) who wish to apply for asylum beyond Greece. This changed status to a country of reception can be viewed as a by-product of its membership in the EU but also of the routes that have developed. Limited access to Albania, Montenegro, Bosnia and Herzegovina and Kosovo, has led smugglers and migrants alike to seek alternative pathways of crossing beyond Greece. The landscape and terrain does not help, at times inhospitable and impossible, inherently pushing for specific pathways to emerge. Thus, emerging trends take into account a combination of elements: border policies, supply-demand, costs, and ease of access, risk and geography.

²⁴⁹ HU/A/1

²⁵⁰ HU/M/IQ/1

²⁵¹ HU/M/IQ/1

²⁵² HU/M/PK/9, remarks by AF migrant

4. Policy Responses to migrant smuggling among and in the countries selected

This section covers the main policy responses of national authorities of Greece, the Former Yugoslav Republic of Macedonia and Hungary in addressing migrant smuggling, including not only national legislation but also relevant international and regional cooperation, bilateral and multilateral agreements, projects and initiatives, and governmental and civil society actors involved. The section proceeds first with those policies and structures in place which are relevant for migrant smuggling in particular or irregular migration in general along a specific route segment. Following this, the national context will be presented for each country in turn.

4.1 Policies directed towards the selected routes

4.1.1 Route segment Greece – Turkey

In terms of Greek cooperation with third countries, and especially with the Former Yugoslav Republic of Macedonia and with Serbia, information is limited. The main focus for Greece in terms of addressing migrant smuggling is Turkey as a country of departure for arrivals in Greece, and countries like Pakistan and Afghanistan from where a significant influx of arrivals originates (see Case Study 3 for more information on Greece's cooperation with these countries), as has been noted above. However, these cooperative frameworks can still be considered relevant for this route, considering that many of the irregular arrivals (particularly from Turkey of Pakistani and Afghan nationals) do then initiate secondary movement in departing Greece via the Western Balkans route, as has been noted above in the chapter on Practice. It is thus included here as relevant for the selected route.

Greece signed the Readmission Protocol with Turkey in 2002; however implementation has been considered problematic from the beginning. From 2006–13, Greece presented 5686 readmission requests to Turkey, in the context of this Protocol, concerning 122,437 people. Of those, 12,326 were accepted for readmission but only 3805 were effectively returned to Turkey.²⁵³ The reason is the reported overall reluctance of Turkey to actually implement the Protocol. While the Protocol foresees three readmission locations (the airports of Athens and Istanbul respectively, a border crossing point of the Greek-Turkish border at the Evros River, and the port of Izmir for Turkey and the port of Rhodes for Greece), only the land border readmission locations are actually used. Turkey continues to refuse to use the port of Izmir as a readmission location, noting that it does not have the necessary human and material resources for that.²⁵⁴ Furthermore, Turkey negotiated geographical limitations to the Protocol, willing to accept only nationals of countries with direct borders to Turkey. This has automatically significantly limited the number of potential returnees.²⁵⁵

As regards the last five years, it was stressed by authority stakeholders in Greece that a major reason for this influx via Turkey is the:

"Largely loose visa regime of Turkey, which allowed for migrants to arrive from various countries in a relatively easy way to Istanbul. From Istanbul, the distance to 'European' soil, including Greece, is small."²⁵⁶

Significant progress has, nonetheless, been made in the last two years particularly in relation to cross-border cooperation. Border Officers have been exchanged between the two countries and gradually an operational cooperation began at the local level between Greece and Turkey, which is now institutionalised. It has been reported that often the Greek border guards identify immigrant groups within the Turkish territory, and inform the Turkish authorities who in turn often react and apprehend them before crossing onto Greek territory.²⁵⁷

²⁵³ Data provided by the Ministry of Foreign Affairs in 2013.

²⁵⁴ GR/A/02

²⁵⁵ Triandafyllidou, A., & Dimitriadi, A. (2013). Migration management at the Outposts of the EU: the case of Italy and Greece's Borders'. *Griffith Law Review*, 22(3), 598-618.

²⁵⁶ GR/A/02

²⁵⁷ Dimitriadi, A. (2013). Migration from Afghanistan to third countries and Greece, *IRMA Background Report*. Athens: ELIAMEP. Interview with Hellenic Police representative, anonymous.

More detailed information on border controls conducted along this border section, policies and practices between the two countries, and other information relevant with regard to this route is included in Case Study 3.

4.1.2 Route segment Greece – the Former Yugoslav Republic of Macedonia

Such level of cooperation as has been seen between Greece and Turkey, however, does not exist as far as current research has shown with the authorities in the Former Yugoslav Republic of Macedonia, though information is exchanged. What appears to be lacking is an institutionalised setting. The Hellenic Police has signed Police cooperation agreements, in force with Hungary, Bulgaria, Serbia and Turkey.²⁵⁸ However, with the Former Yugoslav Republic of Macedonia it is under a ratification process.

In terms of bilateral Readmission Agreements and Implementation Protocols, no information exists from the Greek side, though the research in the Former Yugoslav Republic of Macedonia noted that there are challenges in the cases of readmission between the Former Yugoslav Republic of Macedonia and Greece. Since there is no protocol for implementation, the legal basis for readmission with Greece (in the cases where it is proven that the migrants were in Greece prior to entering the Former Yugoslav Republic of Macedonia illegally) is the readmission agreement between the Former Yugoslav Republic of Macedonia and the European Union. The Former Yugoslav Republic of Macedonia has initiated the ratification of a readmission protocol with Greece in order to shorten the complicated procedures, but at the time of the research there is no official answer upon that initiative.²⁵⁹ However, the respective Former Yugoslav Republic of Macedonia authorities claim that there is an improvement in cooperation with the Hellenic counterparts in the recent period and that the readmission process is continuing more smoothly.²⁶⁰ This has however not been confirmed on the Greek side, regarding the readmission process.

Greece and the Former Yugoslav Republic of Macedonia are lacking an agreement for joint patrols and joint contact centres along the border, even though those kinds of agreements have been concluded between the Former Yugoslav Republic of Macedonia and its other neighbouring countries. Moreover, in the progress report for the Former Yugoslav Republic of Macedonia for 2013, the European Commission noted that "the border controls have not been effective in detecting irregular migration into the country from Greece and onward transit from the country towards Serbia."²⁶¹

4.1.3 Route segment the Former Yugoslav Republic of Macedonia – Hungary

Following the significant police reform in the Former Yugoslav Republic of Macedonia that began in 2003, a National Strategy for Police Reform was developed and included a number of reforms for the purpose of achieving effective border control including the Police Cooperation Convention in South-East Europe (PCC SEE).²⁶² Regarding the former, the Convention was signed in 2006 (also by Serbia) and ratified in 2007 by the Former Yugoslav Republic of Macedonia. Hungary also acceded to the convention in 2012. The PCC SEE envisages exchange of information, joint threat analysis, joint investigation teams as well as mixed patrols along the state borders.

The IPA Cross-Border Cooperation Programmes, an instrument of the European Union that supports cross-border cooperation between candidate countries and EU Member States, enables joint projects along the border. The Former Yugoslav Republic of Macedonia has signed protocol agreements for joint patrols and joint contact centres with almost all neighbouring countries (Serbia, Albania, Kosovo and Bulgaria). The cooperation is also facilitated by the Migration, Asylum, and Refugee Regional Initiative (MARRI), whose members include the Former Yugoslav Republic of Macedonia and Serbia, among other Western Balkan countries.²⁶³ According to MARRI, there is a current initiative for opening a common border control centre between the Former Yugoslav Republic of Macedonia and Serbia, aiming at

²⁵⁸ A full list is available in English at <http://www.astynomia.gr/images/stories/2013/agreements/eng.pdf>

²⁵⁹ Ibid.

²⁶⁰ MK/A/4 and MK/A/5

²⁶¹ European Commission (2013), The Former Yugoslav Republic of Macedonia 2013 progress report, p. 47. <http://ec.europa.eu/enlargement/pdf/key/documents/2013/package/mk/rapport/2013.pdf> Accessed 03 April 2015.

²⁶² On 5 May 2006 in Vienna, the Ministers of Interior from Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Moldova, Montenegro, Romania and Serbia, signed the Police Cooperation Convention for Southeast Europe. After ratification by all seven signatory states, the Convention entered into force on 10 October 2007. In addition, Bulgaria acceded to the Convention on 25 September 2008, Austria on 24 May 2011, Hungary on 6 July 2012 and Slovenia on 14 December 2012.

²⁶³ Interview MK/IT/1. The MARRI member states are: Albania, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Montenegro and Serbia.

better control of the legal and illegal border crossings between both countries and with a view towards the route towards Hungary.²⁶⁴ However, in the progress report for the Former Yugoslav Republic of Macedonia for 2013, the European Commission noted that "border controls have not been effective in detecting irregular migration into the country from Greece and onward transit from the country towards Serbia."²⁶⁵ Furthermore, the 2014 Frontex Risk Analysis for Western Balkans observes that there is a discrepancy in the number of detected irregular migrants for 2013: the figures in Serbia (4795 detections) are several times higher than those in the Former Yugoslav Republic of Macedonia (995 detections),²⁶⁶ which suggests that many of them crossed through the latter country irregularly without detection by the Former Yugoslav Republic of Macedonia's authorities. This has been considered to be due to the absence of cooperation between the Former Yugoslav Republic of Macedonia and Serbia, which is also part of the Western Balkan route.²⁶⁷

The Former Yugoslav Republic of Macedonia also hosts a Frontex joint operation coordination point, to aid in the detection of irregular migration trends from Greece through third countries towards other EU Member States.²⁶⁸

Moreover, there are readmission agreements in place between the Former Yugoslav Republic of Macedonia and the EU.²⁶⁹ These are considered key in terms of return of irregular migrants, but more information (aside from that included in the previous section on implementation of returns with Greece) on the implementation of these specific readmission agreements is not available.

4.1.4 Route segment Serbia – Hungary

The responsibility for the control over the Hungarian-Serbian border section is within the authority of the Bács-Kiskun County Police Department and the Csongrád County Police Department,²⁷⁰ the latter reportedly being more heavily affected by migrant smuggling activities.²⁷¹ The Csongrád County Police has in particular provided information training to bus and taxi drivers, civil guards (*polgárőrök*) and to field-guards (*mezőőrök*) in the border areas who in their work may come in contact with migrants and migrant smugglers. The training concerns the procedures they need to follow in instances when they suspect illegal migration and migrant smuggling related activities.²⁷²

With Serbia in particular, cooperation appears to be well organised and institutionalised, with the Serbian border police able to use the Hungarian police's equipment (primarily the thermographic cameras) and the relevant institutions holding regular meetings and phone contact.²⁷³ An issue that arises is that given the budget-based planning of the cooperation activities, ad hoc operational meetings with third countries are difficult to finance.²⁷⁴

Recently, Hungary has signed a Memorandum of Understanding with Serbia on allowing land transport of migrants to Kosovo (by closed charter buses) which they had previously blocked.²⁷⁵ These joint return operations to Kosovo are organized by Frontex.²⁷⁶ Moreover, Hungary has also established a readmission agreement with Kosovo.²⁷⁷ The

²⁶⁴ Interview MK/IT/1

²⁶⁵ European Commission (2013), *The Former Yugoslav Republic of Macedonia 2013 progress report*, p. 47. <http://ec.europa.eu/enlargement/pdf/key/documents/2013/package/mk/rapport/2013.pdf> Accessed 3 April 2015.

²⁶⁶ FRONTEX, *Western Balkans Annual Risk Analysis 2014*, p.18. <http://frontex.europa.eu/assets/Publications/Risk/Analysis/WB/ARA/2014.pdf>, Accessed 2 April 2015

²⁶⁷ MK/A/4

²⁶⁸ <http://frontex.europa.eu/operations/archive-of-operations/UYwS0o>

²⁶⁹ The readmission agreement between the EU and the Former Yugoslav Republic of Macedonia has been signed on 18 September 2007, and is being implemented as of 1 January 2008.

²⁷⁰ Information is provided by the Analytical Unit of the National Police, General Directorate for Law Enforcement, Hungary, 14.10.2011

²⁷¹ HU/A/2

²⁷² HU/A/2

²⁷³ HU/A/1, HU/A/2

²⁷⁴ HU/A/1, HU/A/2

²⁷⁵ Index (2015), 'Megállapodtak, hogy szállítják hazára a koszovói menekülteket', Index 19 February, <http://index.hu/belfold/2015/02/19/megallapodtak/hogy/szallitjak/haza/a/koszovoi/menekulteket/>; HU/A/2

²⁷⁶ HU/A/3

²⁷⁷ European Migration Network (EMN) (2012) *Annual Policy Report 2012 on Migration and Asylum Policy in Hungary*. http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/annual-policy/2012/hu_emn_ncp_annual_policy_report_2012_final_en.pdf. Accessed 27 August 2015.

agreements reached allow Hungary to return irregular migrants in a more effective and cost-efficient way to their country of origin. This has been considered a key policy response to the increased arrivals of migrants from Kosovo in Hungary in 2014 and early 2015.

The Serbian Minister of Interior has noted that the number of irregular migrants had dropped significantly thanks to cooperation between the Serbian, Hungarian, Austrian and German police forces, the installation of infrared cameras and tightened border controls.²⁷⁸ Under pressure from the EU, Hungarian border control as well as checks on the railways within Hungary have been stepped up. Moreover, a joint police operation between Germany, Austria, Hungary and Serbia was launched in early February 2015, with a focus on this route.²⁷⁹

Furthermore a Joint Communication Service of the Serbian and Hungarian Police in Röszke, Hungary, opened in mid-2014 and a joint border patrolling procedure was thus established. Officers from both countries can seek information at the joint police centre. They are mainly approached for data checks on vehicles, persons and documents.

Joint Investigation Teams (JITs) and joint border patrols aim to facilitate the investigation and border patrolling procedure, with an aim to address irregular migration flows. According to authorities, this is an important framework within which they exchange information and establish cooperation:

"The JITs are the framework within which we can exchange information within two days. The financial background of the cooperation is very important. It is essential to have operational meetings between the countries involved and to support third countries."²⁸⁰

As of 30 June 2015, with a Memorandum of Agreement, JITs have been set up and joint operations are carried out also on the border between Serbia and the FYRoM.

Another policy response tool is the possibility of joint operations in the framework of the PCC SEE (Police Cooperation Convention for Southeast Europe) that was signed by the Ministers of Interior from Albania, Bosnia and Herzegovina, Macedonia, Moldova, Montenegro, Romania and Serbia in 2006 and was ratified in 2007. PCC SEE allows joint actions such as joint threat analysis, liaison officers, cross-border surveillance, undercover investigations to investigate crimes and to prevent criminal offences, technical measures for facilitating transborder cooperation, border search operations, mixed analysis working groups, joint investigation teams, mixed patrols along state borders, cooperation in common centres, etc.²⁸¹

The Hungarian National Police has also delegated Police Liaison officers to both Serbia and Austria as part of the cooperation against transnational organised crime, and Austrian authorities have further deployed a police liaison officer in the territory of Hungary and Serbia as well. If there is an organised crime case that involves three countries, operational meetings are organized by SELEC (Southeast European Law Enforcement Centre):

"Via SELEC we exchange relevant information with Bulgaria, Romania, Macedonia, Serbia. The main co-operative levels are with Serbia, Slovakia, Austria."²⁸²

In case of four countries, for example, Austria, Hungary, Germany and Serbia, these are organised by EUROPOL. The scope of the Hungarian NBI thus is cooperation with other countries from which the members of the organised criminal groups originate. In June, the government announced building a fence along Hungary's border with Serbia,²⁸³ with the aim of preventing irregular migrants from entering the country the construction has since been on-going. According to Foreign Minister, the 175-km-long and 4-meter-high fence is viewed as a solution for the increased rate of (irregular) immigrants to the country. Various civil society actors have voiced their criticism of the plan, predicting

²⁷⁸ Hungarian Government (2015), *Hungarian, Serbian and Austrian Ministers of Interior met in Belgrade*. <http://www.kormany.hu/en/ministry-of-interior/news/hungarian-serbian-and-austrian-ministers-of-interior-met-in-belgrade>. Accessed 18 May 2015.

²⁷⁹ Hír24 (2015), 'Szigorúbb ellenőrzés less a szerb-magyar határon', *Hír24* 9 February, <http://www.hir24.hu/kulfold/2015/02/09/szigorubb-ellenorzes-less-a-szerb-magyar-hataron/>.

²⁸⁰ HU/A/1, HU/A/2

²⁸¹ <http://www.pccseesecretariat.si/index.php?item=9&page=static>

²⁸² HU/A/1

²⁸³ Reuters. 17 June 2015. *Hungary to fence off border with Serbia to stop migrants*. <http://www.reuters.com/article/2015/06/17/us-hungary-immigration-idUSKBN0OX17I20150617>

that the fence would not solve the crisis but may actually benefit smugglers, as migrants would be forced to seek their services to (re-)enter the EU on alternative routes.²⁸⁴ If the fence is built, the Western Balkan route is predicted to change in the direction of Croatia and/or Romania, but will still go through both Serbia and Hungary. The Hungarian Helsinki Committee (HHC) fears that plans of the fence will induce pressure on current potential migrants to move towards their countries of destination while the fence is not yet in place.²⁸⁵ HHC also estimates that, contrary to the government's claims, the number of migrants returned to Hungary in accordance with the Dublin III regulation is not so high that the country could not handle it.

In Serbia, with whom Hungary has good cooperation, it is feared that the building of the fence may put additional pressure on the already poorly functioning asylum system. These fears are also related to the fact Hungary has identified Serbia, alongside the FYRoM, Montenegro and Albania, as a safe third country²⁸⁶, which, according to the new amendment of the national asylum legislation makes it possible to decide on asylum application in a summary proceedings. According to Amnesty International, this in turn may result in deportation of migrants arriving to Hungary back to Serbia.²⁸⁷

Hungary has also announced its plan to engage its border patrol on the Former Yugoslav Republic of Macedonia-Serbian border from 30 June 2015, in order to attempt to stem the flow of migrants.²⁸⁸ In addition, responding the ever larger number of migrants arriving to Hungary, the country announced to spend additional funds from its budget on migration-related issues. 6.6 billion HUF is allocated for the construction of the fence on the country's southern border, while 22 billion HUF will be spent on temporary placements of migrants. This includes establishing new reception centres as well.²⁸⁹

Moreover, the Hungarian, Serbian and Austrian Ministers of Interiors agreed on enhanced cooperation and signed a Memorandum of Understanding.²⁹⁰ Finally, a good example of civil sector engagement in awareness-raising on this route section is the field office of Asylum Protection Center APC / CZA in Subotica.²⁹¹ The field office seeks to address migrants who are not asylum seekers but are in an irregular situation in Subotica, near Serbia's northern borders with Hungary. The scope of the field office is to provide information to this specific target group about their irregular situation in Serbia, their rights, duties, the risks of traveling by illegal means and with the assistance of smugglers, about their legal position and legal consequences, and to monitor the situation in the field. It further aims to provide legal and psychological assistance to those migrants who express intent to lodge an asylum claim in Serbia. This however, is a rather exceptional case given that the prevalent majority of migrants residing in Subotica intend to leave Serbia. In the past, those activities were done as a part of an EU-funded project "Enhancing asylum systems in Serbia" (EIDHR programme), but will continue in May 2015 outside of the project framework. Further initiatives of this NGO aimed at reducing the risks of abuses and exploitation of vulnerable groups are, among others, granting automatic temporary protection for up to one year to all refugees from Iraq and Syria, issuing asylum ID cards to all asylum seekers and providing adequate reception facilities for unaccompanied minors in Serbia.

²⁸⁴ The Guardian. 22 June 2015. *Migrants on Hungary border-fence: This wall. We will not accept it.*

<http://www.theguardian.com/world/2015/jun/22/migrants-hungary-border-fence-wall-serbia>

²⁸⁵ http://helsinki.hu/wp-content/uploads/Helsinki_nyilt_level_PinterS_vasfuggony.pdf

²⁸⁶ Website of the Hungarian Government, (2015) 'Government has identified list of safe countries', 22 July. <http://www.kormany.hu/en/news/government-has-identified-list-of-safe-countries>.

²⁸⁷ Amnesty International (AI) (2015), Hungary: Change to Asylum Law puts tens of thousands at risk. <https://www.amnesty.org/en/latest/news/2015/07/hungary-change-to-asylum-law-puts-tens-of-thousands-at-risk/>. Accessed 27 August 2015.

²⁸⁸ Yahoo! News. 22 June 2015. *Hungarian Police to Assist Serbia on Macedonia border.* <http://news.yahoo.com/hungarian-police-assist-serbia-macedonian-border-132214252.html>

²⁸⁹ Website of the Hungarian Government, (2015) 'The Government will spend another HUF 22 billion on the migration issue', 29 July. <http://www.kormany.hu/en/prime-minister-s-office/news/the-government-will-spend-another-huf-22-billion-on-the-migration-issue>.

²⁹⁰ Website of the Hungarian Government, (2015) 'Serbian, Austrian and Hungarian interior ministers agreed on cooperation', 1 July. <http://www.kormany.hu/en/ministry-of-interior/news-serbian-austrian-and-hungarian-interior-ministers-agreed-on-cooperation>.

²⁹¹ Asylum Protection Center (APC), <http://www.apc-cza.org/en/apc-cza-odeljenje-subotica.html>. Accessed 18 May 2015.

4.1.5 Route segment Greece – Hungary

It should also be noted that as pertains specifically Greece-Hungary cooperation, it takes place in the framework of the European Union common institutional participation, and membership in organisations such as EUROPOL and Interpol. There does not appear to be specific policies directed towards combatting smuggling between the two countries, or at least such information, if available, was not discussed by interviewees or found in the desk research.

4.2 National policy framework: Greece

In Greece, the two main Law Enforcement Agencies responsible for managing, responding to and combatting migrant smuggling are the Hellenic Police and the Hellenic Coastguard. The former has a division dedicated to irregular migration (Aliens Division) that is responsible for the intelligence gathering of information regarding smuggling operations and organised crime for irregular migrants. In this context, migrant smuggling falls under the scope of organised crime because it fulfils many of the criteria of organised crime. According to an authority interview:

"Smuggling is conducted by groups of at least 3 persons, they have continuous activity and usually - though not always - there is some semblance of allocated roles."²⁹²

Smuggling, i.e. the activity of transporting, aiding and abetting, falls under criminal charges and penalties. Thus, smuggling and facilitation are indistinguishable in Greek law and are treated as criminal violations without distinguishing between facilitator and smuggler. A distinction however exists between one-time and repeat offenders. One-time offenders, or persons apprehended for smuggling of small groups (e.g. 3-4 persons) will be charged but the public prosecutor may recommend a medium length of sentence. For repeat offenders (i.e. previously apprehended) and for those caught smuggling larger groups, public prosecution tends to recommend the maximum penalty, which is at least 10 years and monetary payment 50,000 EUR per smuggled person (see below L4251).

Greece has transposed all of the Palermo Protocols²⁹³ in its national legislation, though it has retained the right to apply different penalties, higher than what the Protocols recommend, for convicted smugglers and traffickers. Irregular entry and/or exit are considered administrative felonies in Greece, which means that the migrant would be penalised for both unauthorised entry to the country and unauthorised attempted exit. It has also transposed to national legislation the

- ★ Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence;
- ★ Council framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (especially arts 3,4 &5); and
- ★ Council Framework Decision 2002/584/JHA on the European arrest warrant and the surrender procedures between Member States.

Recently L.4251/2014 codified all legal instruments, including penalties relating to smuggling. Law 4251/2014 represents the first codified version in matters of immigration and social inclusion, organising all previous amendments made to pre-existing legislation under one single text. It incorporates all relevant sections, terminologies, penalties and prosecution procedures of the previous laws and codifications (namely L3251/2004, L3386/2005, L3536/2007, L3907/2011 and L4052/2012).

The vast majority of provisions relative to this assessment has remained intact and have been recast in the body of the new law with different references. The relevant provisions covering the purpose of the Directive are located under Chapter H of Law 4251/2014 titled "Obligations of services, public officers and individuals". Article 29(5) and (6) and Article 30²⁹⁴ thereof describe the crime of unauthorised entry, transit and facilitation and impose the relevant

²⁹² GR/A/02

²⁹³ [Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children](#); the [Protocol against the Smuggling of Migrants by Land, Sea and Air](#) and the [Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition](#)

²⁹⁴ In July 2015, the Greece Parliament amended Article 30 (par.1-2) of Law 4251/2-14, specifically stating that penalties will not be incurred for the transport of persons in need of humanitarian assistance in the country or the facilitation of their transport in the country (for example by transporting them to the nearest town or village, offering food, etc). In line with the fact that assistance and rescue at sea are not criminalised (see below

sanctions. The definition of “victim of migrant smuggling”²⁹⁵ is located under Article 1(1)(I) of Law 4251/2014. The law distinguishes between a victim of trafficking and a victim of smuggling, with the latter defined as the individual, for which there are reasonable grounds for believing that he/she is a victim of smuggling/facilitation. The latter is defined as “any assistance/facilitation offered to third country nationals who do not have proper authorisation, pertaining to their unlawful entry or exit from Greek soil.”

Article 87(5) of Law 3386/2005 which is incorporated under Law 4251/2014 punishes a person for assisting a third-country national to enter or exit the Greek territory, in breach of Article 5 of the same law as an aggravating circumstance where committed for financial gain or professionally or habitually or where the crime is committed by two (2) or more persons acting in concert.

Article 85(6) of Law 3386/2005, which is incorporated under Law 4251/2014, Articles 29(5) and (6), and Art.30 punishes a person who assists a third-country national to reside or who hinders the police authorities’ investigations for the location, arrest and expulsion thereof, as an aggravating circumstance where committed for financial gain. Given that the Directive provision punishes only the assistance provided with the purpose of residence, the national legislation can be considered stricter than the Directive. More specifically, the national legislation has also an aggravated form of the assistance to enter or exit the Greek territory and of the disruption of police investigations for the location, arrest and expulsion of the third-country national. Additionally, apart from the element of “financial gain”, the Greek legislation refers to other factors constituting an aggravating version of the crime under Article 87(5) of Law 3386/2005 and which cover the cases where the crime is committed professionally or habitually or by two or more persons acting in concert. Again, the national legislation proves to be stricter than the Directive in defining aggravated forms of smuggling.

Sanctions are covered under Law 4251/2014, Articles 29(5) and (6), Art.30 and the Criminal Code, Arts 46, 47 ad 42.

If one is apprehended facilitating either entry or exit, he/she is liable to a 20,000 EUR fine and ten years imprisonment. If one is considered to be performing such activities for profit, i.e. is a professional and thereby is considered a smuggler, that individual is liable to ten years imprisonment and 50,000 EUR fine. Thus the law indirectly distinguishes between facilitator and smuggler, though in practice it is unclear how they are identified. The migrant who is apprehended while accompanied by facilitator/ smuggler entering or exiting unauthorised is also penalised but still considered a “victim of smuggling”.

Equally liable is the individual who rents a house, room, etc to undocumented migrants or who hampers a police investigation in search of unauthorised residents. Again the law distinguishes between those who perform this one time or for other reasons and those who rent establishments to migrants for profit. The former are penalised with 5000 EUR and latter with two years’ imprisonment and 10000 EUR fine. The same fines apply to those who withhold passports or other travel documents against the will of the individual. Travel agencies are liable with one year imprisonment and 10000 EUR fine if they submit travel documents that do not match the person traveling. The traveller is also similarly fined.

The drivers, pilots or other transport carriers who enable illegal entry or who pick irregular migrants up from pre-agreed points for transit to other EU Member States or third countries or who assist them with housing aiming at concealment can be charged with up to 10 years imprisonment, 30,000 EUR per transported individual and – in cases where the person is deemed a professional smuggler – ten years imprisonment and 60,000 EUR for every transported person. In this category, the law includes also public officials, tourist agency employers, travel agents and shipmasters. Furthermore, the law distinguishes between endangering a life during transportation and death, with the former incurring 15 years imprisonment and 200,000 EUR fine per smuggled individual and the latter incurring life in prison and 700,000 EUR fine per deceased person.

description of Law 4251/2014, Art. 30(6)), now assistance on land is similarly decriminalised. The law also reportedly brings Greece more in line with the 2002/90/EC Directive regarding humanitarian assistance. See Greek Council for Refugees (2015).

²⁹⁵ This term is specifically used in the Greek legal context.

Regarding the “smuggling of migrants”, a combination of an imprisonment penalty and a financial penalty is imposed. Regarding the specific crime of smuggling of migrants introduced under Article 88 of Law 3386/2005, which envisages specific categories of natural and legal persons that facilitate the transportation of third-country nationals to and within Greece or give them shelter for hiding, it can be observed that the level of the imposable fine varies according to the number of illegally transported persons. Given that the crime under Article 88 of Law 3386/2005 is considered a felony, it entails the respective minimum limit of 5 years of imprisonment. In general, this crime is punished by a maximum penalty of ten years of imprisonment and a fine of 10,000 up to 30,000 EUR for every transported person. Aggravated forms of this crime are also foreseen by national legislation. In particular, if the crime was committed for financial gain, or professionally or habitually or in recidivism or by a public officer or a tourist/shipping/travel agent or by two or more acting in concert, a penalty of at least ten years of imprisonment and a fine of 30,000 to 60,000 EUR for every transported person shall be imposed. Higher penalties are foreseen if danger occurred for human lives, at least fifteen years of imprisonment and a fine of at least 200,000 EUR for every transported person, and if death actually occurred, life sentence and a fine of at least 700,000 EUR for every transported person.

Article 1(2) of Directive 2002/90/EC sets out an option which Greece chose to apply. Law 4251/2014, Art. 30(6) (ex Law 3386/2005, Art. 88(6)) specifies that “6. The above sanctions shall not be imposed in case of rescue of persons at sea as well as of the transportation of persons in need of international protection according to the international law of the sea.” if the assistance is provided in view of rescuing a person at sea or of transporting a person under the need of international protection pursuant to the international law of the sea, the act of assistance shall not be punished. On one hand, the Greek legislation justifies the impunity of the act for reasons of protection of human life and, on the other hand, by invoking the international law of the sea.

Article 46(1) and Article 47(1^o) of the Criminal Code transpose Article 2(b) of Directive 2002/90/EC. With regard to the notion of the “accomplice”, the national legislation distinguishes between a “direct” accomplice, punished by the penalty of the principal perpetrator, and a “simple” accomplice, who is punished by a reduced penalty. More specifically, Article 46(1)(b) of the Criminal Code defines a direct accomplice as the person intentionally providing direct assistance to the perpetrator during the act and to the commission of the main act. On the other hand, Article 47 defines a simple accomplice as the person who intentionally provided any assistance to another person before or during the commission of the infringement.

Though penalties are high, apprehension and identification of smugglers is neither easy nor always feasible. Nonetheless anti-smuggling operations appear to be a priority for both the Hellenic Police and the Hellenic Coastguard and there is close cooperation between the two enforcement agencies. The Hellenic Police specifically, in relation to intra-movement (within Greece) and the land border, cooperates at times with the Hellenic Intelligence Service, EUROPOL and Interpol, as well as of course Frontex.

The International Police Cooperation Division²⁹⁶ is an institutionalised body for communication with the Police and State Authorities of all countries as well as with International and European Organizations concerning cooperation issues falling under the competence of the Hellenic Police. It constitutes the national contact point for cooperation with EUROPOL as well as for exchange of information between national enforcement agencies and EUROPOL but also in relation to the Schengen Information System (SIS), the European Arrest Warrant, and Interpol. Cooperation with EUROPOL especially is continuous and has proven effective based on recent press articles announcing the apprehension of organised criminal groups involved in migrant smuggling and/or trafficking of human beings.²⁹⁷

Frontex is currently undertaking two Joint Operations in Greece, JOP Poseidon Sea (for the maritime border) and JOP Poseidon Land. JOP Poseidon first deployed at the maritime border and following the withdrawal of RABIT²⁹⁸ it extended to the land border. Both have been renewed in response to continuous inflows via these borders. More information on the sea route to Greece is included in Case Study 3.

²⁹⁶ It has four separate sections underneath. For further details see <http://www.astynomia.gr/index.php?option=ozo/content&perform=view&id=50&Itemid=41&lang=EN>

²⁹⁷ For example see recent arrests made, <http://www.ekathimerini.com/4dcgi/w/articles/wsite1/1/17/03/2015/548312>

Interpol and EUROPOL cooperate extensively with the Hellenic Police and Coastguard in the exchange of information, risk analysis, operational measures and in Joint Operations, under the leadership and organisation of either Interpol or EUROPOL. EURJUST seems to have limited participation in activities, with the exception of operation ARCHIMEDES²⁹⁹ where the focus was not only apprehension but also prosecution.

In fact, whereas operationally there is a strong cooperation with EU Member States and agencies, legally it seems there is little exchange of information, shared training and monitoring of cases. Greece does not have (at present) a database system where migrant smuggling and human trafficking (or any other forms of organised crime) cases can be tracked from the moment they enter the judicial system to the end. There is no special prosecutor for smuggling, since the phenomenon has a geographical dispersal and there appears to be no particular collaboration between public prosecutors between Member States. The South-eastern European Prosecutorial Advisory Group that could, in theory, coordinate, appears to have limited to no involvement or participation. Thus, a national database, as well as an EU database where common characteristics, prosecutor avenues and outcomes could be included, along with basic information on arrested smugglers (nationalities, profile etc) are considered much needed.³⁰⁰

Aside from law enforcement agencies, the International Organisation for Migration (IOM), UNHCR Greece, and NGOs offering medical assistance such as Doctors without Borders (MSF) also deal with persons smuggled into or out of the country. IOM has run various information campaigns in countries of origin, including Pakistan, Bangladesh, Iran, however during the interview with IOM it was noted that the organisation:

"Does not have a legal alternative to offer. What these campaigns focus on is presenting the real picture as opposed to the lies presented by the smugglers. The campaigns mostly refer to Central and Northern Europe but to get there one must first cross through Greece. [...] The prevention campaigns have also showed us another element. We describe to them the risks but everyone thinks this happened to somebody else and will not happen to them."³⁰¹

Thus, while awareness-raising campaigns have been noted by stakeholders, their limitations have also been made clear.

The Greek National Rapporteur on Trafficking in Human Beings also collaborates with agencies in relation to migrant smuggling and human trafficking. The Office also collaborates on projects with the countries of origin, for example the "Mario Project" in partnership with Bulgaria and Romania. The Office has succeeded in incorporating the trafficking perspective in the early screening conducted by the First Reception but also in the asylum interviews.³⁰²

As regards successful examples of policies, the closest stakeholders came to considering a policy effective was in reference to the border fence in Evros, where interviews with law enforcement authority officials acknowledged that both Operation *Aspida* and the fence significantly reduced arrivals via the land border. However, the same officials recognised that this merely shifted the burden to the sea border rather than reduce overall arrivals. This is covered more in detail in Case Study 3, with regard to its impact on maritime arrivals. As pertains to exit from Greece, no specific policy was highlighted as effective, though all interviewees stressed the importance of border cooperation in ensuring effective controls of the land borders.

Return policy in Greece is governed either by readmission agreements (bilateral or through the EU) or through collaboration with IOM and Frontex. Implementation of returns however, is not solely dependent on the existence of an agreement; cooperation from both sides is essential. The overwhelming majority of returns undertaken in recent years have taken place primarily via IOM and/or voluntary return programs run by the Police and IOM in detention facilities. Forced returns are also undertaken by the Police and at times in conjunction with Frontex's return flights.

²⁹⁹ The focus of the operation according to the official press release was "to disrupt the activities of criminal groups engaging in the trafficking and production of drugs, the trafficking of human beings, the facilitation of illegal immigration, organised property crime, the trade in firearms and counterfeit goods". For more info please see <https://www.europol.europa.eu/content/operation-archimedes>

³⁰⁰ GR/A/10

³⁰¹ GR/I/06

³⁰² GR/A/08

Although Greece participates in a number of intergovernmental processes and dialogues (for example, the Budapest Process, the Mediterranean Transit Migration Dialogue), these processes and dialogues were not mentioned by any of the authority or expert interviews as being particularly relevant with regard to addressing migrant smuggling. Rather, border control and prosecutorial activities were considered of high importance, as highlighted in this section.

4.3 National policy framework: The Former Yugoslav Republic of Macedonia

The United Nations Convention against Transnational Organized Crime and its supplementary Protocol against the Smuggling of Migrants by Land, Sea and Air have been signed by the Former Yugoslav Republic of Macedonia's government on 12 December 2000, ratified on 12 January 2005 and transposed into several laws listed below.

As noted by several authority stakeholders, the primary and secondary legislation which pertains to migration management has been harmonised with the legal trends of the European Union and with international standards. The Former Yugoslav Republic of Macedonia has introduced a number of penalty measures for migrant smuggling. According to the Criminal Code,³⁰³ migrant smuggling is a criminal act. The punitive provisions against participants in migrant smuggling are regulated in the Article 418-b of the Criminal Code, which is included in full in the introduction chapter. Furthermore, the punitive provisions against organised groups for human trafficking, trafficking of children and smuggling of migrants are regulated in the Article 418-c of the Criminal Code.³⁰⁴ The Criminal Code provisions do not differentiate between "smugglers" and "facilitators of smuggling" since any kind of involvement in the smuggling operations is considered a criminal act. However, the prison punishments will be much higher for the organisers of the smuggling operations (at least 8 years imprisonment) than for a member of the organised group for smuggling (at least 1 year imprisonment).

According to the interviewed stakeholders, the high penalties introduced (up to ten years imprisonment) for organising smuggling operations have not discouraged the smugglers.³⁰⁵ On the contrary, the smuggling phenomenon in the Former Yugoslav Republic of Macedonia has intensified in parallel with the increase of irregular migration flows.

Smuggling of migrants is not the only crime associated with irregular migration in the Former Yugoslav Republic of Macedonia. Irregular border crossing is also considered a criminal act, according to the Article 402 of the Criminal Code,³⁰⁶ punished with imprisonment of up to one year for those undertaking the crossing. Moreover, unlawful residence (stipulated in the Article 100 of the Law on Foreigners), is cause for expulsion from the country, according to Article 101 of the same law.

There are a number of additional laws that are also considered particularly relevant in addressing migrant smuggling, including:

- ★ The Law on Border Control. The national system for border security in the Former Yugoslav Republic of Macedonia has been developed considering the regional approach as well as the commitment for implementation of EU standards for border management. This includes equipping and training of border guards, cross-border police cooperation and practical implementation of standard operating procedures in daily border operations. This approach is also applied for initiating, preparing and implementation of measures and mechanisms for direct and indirect border operations against irregular migration flows in general.
- ★ The Law on Criminal Procedure. Migrants who have been apprehended where the smuggler/facilitator was a Macedonian national, cannot leave the country for a short period of time, usually 2-3 months, until a case against the Macedonian smuggler has been finalised. The law prescribes they are temporarily accommodated in the Reception Centre for Foreigners. After the court procedure has completed and migrants submit their asylum claims, they are released from the Reception Centre and allowed freedom of movement. The recent

³⁰³ Criminal Code of the R. Macedonia, (1996), Official Gazette 37/1996.

³⁰⁴ Criminal Code of the R. Macedonia, (1996), Official Gazette 37/1996.

³⁰⁵ MK/O/1, MK/IT/2, MK/IT/3.

³⁰⁶ MK/O/1, MK/IT/2, MK/IT/3.

changes in the Law on criminal procedure allow for settlement of the disputes, "which resulted with a shortened time of the court procedures."³⁰⁷

- ★ The Law on Asylum and Temporary Protection. This regulates the conditions and procedure for granting/cancelling the right to asylum for a foreigner or a stateless person, who seeks recognition of the right to asylum. This law is very relevant to irregular migrants, who, in most cases as reported by interviews, lodge asylum claims as a tactic in order to receive a right to stay in the territory and to avoid detention, so that they may continue onwards through the country. In order to meet the needs of the migrants, as well as to prevent tragedies during their movement through the country, the Former Yugoslav Republic of Macedonia's Parliament, on 18 June 2015 has adopted changes in the Law on Asylum and Temporary Protection. The law provisions allow migrants, upon their illegal entry in the Former Yugoslav Republic of Macedonia, to legally stay in the country for three days by lodging an asylum claim. Upon their request for asylum (orally or in written form to a police officer in the field or in the nearest police station), migrants receive a document for legal stay of 72 hours in the country. This timeframe is given in order to avoid the dangerous situations on the train tracks (many migrants have lost their lives in the recent period, as stated in the previous parts of the study), as well as to prevent their irregular movement through the country and being endangered by criminal gangs that steal money and belongings. With these law provisions, migrants are able to travel more regularly with public transportation. The changes in the law followed extensive analysis and consultations with the UNHCR representatives. The changes in the law have already reportedly had an impact on the situation of irregular migrants in the country; since the laws implementation, fewer migrants have been reported along the train tracks. However, the changes in the law, according to the human rights activists, offer only partial solution of the problem, since those migrants who serve as witnesses in court procedures against smugglers are kept detained in the Reception Centre for foreigners in Skopje until the court procedure is over (as noted above).
 - The Law on Asylum and Temporary Protection also regulates the rights and obligations of asylum seekers, and of those being recognized refugees, as well as the conditions under which the Former Yugoslav Republic of Macedonia may grant temporary protection. The country is currently adapting its legislation according to the Directive 2011/95/EU, 308 Directive 2013/32/EU 309 and Directive 2013/33/EU.³¹⁰ In January 2015, the Parliament has adopted the Resolution of the Migration Policy 2015-2020³¹¹ as discussed in the introduction.³¹²
- ★ The Law on Foreigners contains provisions regarding unlawful residence, which is cause for expulsion from the country.
- ★ The Law on Social Protection contains provisions about the accommodation and care of irregular migrants staying in the Former Yugoslav Republic of Macedonia's territory, for example in the Reception Centre for foreigners.
- ★ The Law on Employment and Work of Foreigners is applicable for the irregular migrants who stay in the country during the asylum application process.

³⁰⁷ MK/IT/3

³⁰⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF>, accessed 2nd of April 2015

³⁰⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=EN>, accessed 2nd of April 2015

³¹⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=EN>, accessed 2nd of April

³¹¹ Resolution of the Migration Policy of the R. Macedonia (2015-2020), 2014, Official Gazzete of R. Macedonia, 8/2015

³¹² The document articulates the position of the country concerning the regulation of the issues pertaining to migration and their efficient management. The migration policy of the Former Yugoslav Republic of Macedonia is based on the following principles: respect for international standards, protection of human rights and freedoms; comprehensive evidence-based policy (which has been developed in close collaboration with relevant partners), addressing the socio-economic needs of migrants, development of an adaptable policy that can meet the challenges in a time of crisis and to mitigate the risks associated with the movement of migrants. Despite the defined principles, objectives and guidelines, the document sets out an Action Plan with concrete measures and activities related to the migration policy of the Former Yugoslav Republic of Macedonia for the period of 2015-2020.

According to interviewed authorities,³¹³ the National Strategy for Combating Trafficking in Human Beings and Illegal Migration (2013-2016)³¹⁴ provides effective measures and activities to be used by the relevant institutions directed towards detecting and prosecuting both smugglers and smuggled migrants, as well as a complex approach towards the trends of irregular migration in the country. The National Action Plan for Combating Trafficking in Human Beings and Illegal Migration (2013-2016)³¹⁵ is the third consecutive strategic document developed based on needs on the field. These two documents, as stated by the interviewed authorities,³¹⁶ provide national responses to international obligations related to migrant smuggling.

The Action Plan is divided according to four key themes and includes specific sub-objectives and actions relevant in terms of addressing migrant smuggling (as well as additional actions focused specifically on trafficking in human beings):

1. Support Frame, which includes strengthening coordination between the relevant agencies within the country (at the national and local level) and with international actors, bringing the national legislation more in line with the international legal framework and improving data collection.
2. Prevention, which includes identifying root causes of irregular migration, strengthening the capacities of consulates and diplomatic missions in the country and raising awareness among the local communities on the problem of irregular migration.
3. Support and Protection of Victims and Migrants, which, although primarily focused on providing assistance to victims of trafficking, also includes measures to improve services provided to irregular migrants (for example in the Foreigners Accommodation Centre) and increasing funding for repatriation of irregular migrants.
4. Pre-investigation and Criminal Prosecution, including strengthening the Ministry of Interior's capacities to detect and prosecute smugglers, as well as inter-institutional and international cooperation in investigating smuggling networks. In particular, it highlights police, judge and prosecutor training and joint actions/investigations among institutions and with other international actors.

The migration policy of the Former Yugoslav Republic of Macedonia and its complexity implies the need for inclusion of a number of institutions, whose authority and responsibilities should clearly be defined and their activities harmonised and coordinated. Moreover, as noted in the Action Plan, inter-institutional cooperation is considered a key point in addressing migrant smuggling and irregular migration. In order to strengthen the institutional capacity to control migration flows and the migrant smuggling phenomenon, several actions have been undertaken in the past few years in order to enlarge the national structure responsible for migration management.

The central institution relevant in terms of irregular migration in general and migrant smuggling in particular is the Ministry of Internal Affairs (MoI). More specifically, the sectors and units that deal with cases of migrant smuggling within this Ministry are:

- ★ Sector for Border Affairs and Migration (Unit for Foreigners and Readmission and the Mobile Unit for Transnational Crime). According to the Law on Foreigners, the MoI is responsible for all issues related to the control of movement and residence of foreigners, including irregular migrants.³¹⁷ This Sector focuses specifically on these issues.

³¹³ MK/A/2

³¹⁴ National Commission for Combating Trafficking in Human Beings and illegal Migration (2012), *National Strategy for Combating Trafficking in Human Beings and Illegal Migration (2013-2016)*, <http://www.nacionalnakomisija.gov.mk/nacionalni-akciski-planovi-i-strategii/2013-2016>. Accessed 3 April.2015

³¹⁵ National Commission for Combating Trafficking in Human Beings and illegal Migration (2012), *National Action Plan for Combating Trafficking in Human Beings and Illegal Migration (2013-2016)*, <http://www.nacionalnakomisija.gov.mk/nacionalni-akciski-planovi-i-strategii/2013-2016> . Accessed 3 April 2015

³¹⁶ MK/A/2

³¹⁷ Law on Foreigners, Official Gazzete of R. Macedonia, 35/06, Article 7

- ★ Sector for Combating Organised Crime (Unit for Combating Trafficking in Human Beings and Smuggling of Migrants). This Sector is primarily responsible for conducting investigations and initiating criminal charges related to migrant smuggling.
- ★ Border Police. Responsible for managing border security and preventing migrant smuggling. According to the interviewed authorities, the enhanced border controls done by the border police in the recent period have contributed to discouraging the migrants to cross the border alone, which has resulted in an increased number of organised smuggling operations.³¹⁸
- ★ Section for Asylum. Responsible for asylum procedures. This is considered particularly relevant considering the tactic of irregular migrants to claim asylum in order to avoid detention, and the recent changes in the Law on Asylum and Temporary Protection, noted above.
- ★ Reception Centre for Foreigners: Facility for accommodation of irregular migrants, institution of closed type. As noted previously, in cases where a migrant is a witness in a case against a smuggler, they would be housed in this facility for the duration of the case.
- ★ Under the auspices of the Ministry of Labour and Social Policy functions the Reception Centre for Asylum Claimants, which provides accommodation and care for asylum seekers. This is an open type institution.

In March 2001 the government supported the establishment of the National Commission for combating trafficking in human beings and illegal migration.³¹⁹ The members of the National Commission are responsible for handling the foreseen activities and monitoring the situation regarding irregular migration flows and migrant smuggling. This Commission organised and published the National Strategy for Combating Trafficking in Human Beings and Illegal Migration, as well as the accompanying Action Plan noted above. The head of the National Commission, the National Coordinator for combating Trafficking in Human beings and Illegal Migration, notes that the country will continue to adapt national legislation and procedures in the field of migration according to changes in EU legislation and international standards.³²⁰ Moreover, special attention will be paid to the regulations concerning the integration of foreigners in society, as well as prevention of xenophobia, discrimination and marginalisation. In that regard, the country will commit the conceptualisation and implementation of relevant programmes in order to encourage dialogue between immigrants and the domestic population.³²¹ In 2007, the Government also appointed a National Rapporteur on THB and Illegal Migration, who analyses the current situation regarding irregular migration trends and issues annual reports. The work of both the Commission and the Rapporteur has been considered effective in identifying appropriate national responses towards the current trends of irregular migration in the country.³²²

Furthermore, there are other national units created and considered successful in terms of strengthening and coordinating the institutional capacity to control migration flows, such as the National Commission for Integrated Border Management, the National Coordination Centre for Integrated Border Management, the Inter-Ministerial Group for Creation of the Migration Policy, the National Visa Information System, the Visa Center in MFA and the Inter-Ministerial Group for Integration of Refugees and Foreigners.

The following table lists the main units or departments and the actions and decision-making processes relevant for migrant smuggling cases in the Former Yugoslav Republic of Macedonia at various levels: local, regional, national and at the judicial level.

³¹⁸ MK/A/2

³¹⁹ Government decision, Official Gazette of R. Macedonia 18/2001.

³²⁰ MK/A/2

³²¹ MK/A/2

³²² MK/A/2

Table 12: Decision-making process in migrant smuggling cases

Local level	<ul style="list-style-type: none"> - Police stations for border checks and border surveillance - Police stations of general jurisdiction - Crime offices <p>*apprehensions of irregular migrants and smugglers, initial interviews with them, referral of the migrants to the Reception Centre for Foreigners in Skopje, registration of asylum applications</p>
Regional level	<ul style="list-style-type: none"> - Regional Centres for Border Affairs - Department for cross-border crime - Migration and readmission - Interior departments <p>*cross border cooperation, joint police teams, readmission cases</p>
National level (within the MoI)	<ul style="list-style-type: none"> - Department for combating organised and serious crime - Unit for combating Human Trafficking and Illegal Migration <p>*investigations of migrant smuggling cases, initiating criminal charges for smugglers</p>
Judicial/Legal level	<ul style="list-style-type: none"> - Basic Public Prosecutor's Office for organised crime - Basic Court Skopje <p>*court procedures against smugglers</p>

Interview MK/A/2

Anti-migrant smuggling activities are coordinated within the country and with neighbouring countries via a wide range of joint exercises and international projects. Notably, recent experiences in terms of joint exercises and operations have included: exchange of experiences, planning and implementation of joint exercises and training with competent border police services of neighbouring countries (Serbia, Bulgaria, Kosovo and Albania); regular participation in joint operational activities organized by Frontex in the Former Yugoslav Republic of Macedonia and abroad (as of 2011); regular participation in joint and coordinated operations with the support of DCAF in the Former Yugoslav Republic of Macedonia and the region (from 2012).

Moreover, there has also been government participation in the project activities of the International Organization for Migration (IOM) aimed at capacity building and cooperation, as well as general cooperation with IOM, UNHCR, MARRI, DCAF, ICMPD and other international organisations and forums and NGOs that deal with irregular immigration. Participation in the MARRI RC project "Supporting the cooperation between the border police at airports in SEE"³²³; in the UNICRI project "Methodology for integrated multi-perspective assessment of risks and abuses (IM3)"³²⁴; and in the IOM project on "Building the Capacities of and Strengthening the cooperation between law enforcement agencies

³²³ MARRI RC project: "Supporting the cooperation between the border police at airports in SEE" <https://bordairpol.mk/>. Accessed 28 March 2015

³²⁴UNICRI Project: 11 Integrated Multi-Perspective Methodology to Assess Risks of CBRN Misuse (IM3), <https://www.netherlands-coeprojects.eu/icp-im3-project-portal/project-11> . Accessed 28 March 2015

of Macedonia, Albania, Bosnia and Herzegovina, Kosovo, Montenegro and Serbia”³²⁵ have also been specifically noted by the National Coordinator as relevant projects addressing migrant smuggling in the country.

UNHCR and IOM are in particular key stakeholders in terms of providing capacity building and technical advice on improving asylum and migration systems (respectively) in line with European and international standards. MARRI facilitates communication and exchange of information on migration issues between MARRI Member States in south eastern Europe, in addition to implementation of specific projects that deal with irregular migration. The NGO Open Gate and the Red Cross are also important stakeholders involved, in terms of providing direct support to migrants, particularly those accommodated in the Reception Centre for Asylum Seekers. The Macedonian Young Lawyers Association has also been identified as a relevant stakeholder, regarding specifically legal protection of stateless persons, refugees and asylum seekers.

With regard to readmission agreements, in the period of 2009-2014, several bilateral and multilateral agreements with neighbouring countries and beyond have been signed, including one between the Former Yugoslav Republic of Macedonia and the EU which is being implemented as of January 1st 2008.³²⁶ Most returnees are from Germany (the number gradually increases from year to year), as well as from Sweden, Norway, Belgium, and Switzerland.³²⁷ Bilateral readmission agreements have also been concluded with European states: Slovenia, Italia, Switzerland, France, Bulgaria, Hungary, Croatia, Slovakia, Romania, Germany, Albania, Spain, Poland, Austria, Belgium, the Netherlands, Luxemburg, Denmark, Norway, Sweden and Serbia. Protocols for implementation of these readmission agreements have been concluded with seven EU Member States (Estonia, Bulgaria, Austria, Belgium, the Netherlands, Luxembourg and Germany).

The Former Yugoslav Republic of Macedonia has also signed readmission agreements with countries in the region: Moldova, Bosnia and Herzegovina, Serbia and Montenegro. Negotiations are underway for signing readmission agreements with other third countries (Kosovo, Russia, Iceland, Ukraine and Turkey) as well as with other EU Member States (Slovakia, Italy, Hungary, France, Latvia, and Lithuania).³²⁸

4.4 National policy framework: Hungary

Hungary has signed (Dec 14th 2000) and ratified (Dec 22nd 2006) the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocols) and transposed it into the Criminal Code that regulates the detection and punishment of the smuggling of migrants. Migrant smuggling has its definition in the Criminal Code of Hungary with reference to persons helping another person, for financial gain, to cross state borders (not only the borders of Hungary), the full terms of which are included in the introduction. As noted by one authority interview:

“Perpetrator means the principal, the covert offender and the co-actor (“parties to a crime”), as well as the abettor and the aider (referred to collectively as “accomplices”). The penalties (1-5 years imprisonment) applicable to parties to a crime apply also to accomplices. Illegal migration is considered a criminal activity, and assistance in it is also a criminal act. Smuggling is thus equalised with providing assistance. Everyone assisting is a facilitator, providing both physical (taking someone across the border, driving someone by car), or psychological help (observing the movements of the border police, collecting data, even encouragement) – proving this is another issue.”³²⁹

This quote from a local police authority clarifies the operational understanding of the Hungarian legal differentiation between smuggler and facilitator, as set out in the Hungarian Criminal Code Sections 353-354.

³²⁵ IOM Project “Building the Capacities of and Strengthening the cooperation between law enforcement agencies of Macedonia, Albania, Bosnia and Herzegovina, Kosovo, Montenegro and Serbia”, <http://www.albania.iom.int/index.php/en/projects/current-projects/international-projects/74-building-the-capacities-of-and-strengthening-cooperation-between-law-enforcement-officials-of-albania-bosnia-and-herzegovina-kosovo-former-yugoslav-republic-of-macedonia-montenegro-and-serbia>

³²⁶ The readmission agreement between the EU and the Former Yugoslav Republic of Macedonia has been signed on 18 September 2007.

³²⁷ MK/A/3

³²⁸ MK/A/3

³²⁹ Interview HU/A/2

In general, the Hungarian legislation is considered in conformity with EU legislation. In particular, Directive 2002/90/EC is transposed into the Hungarian legal system through the provisions of the Criminal Code noted above. Act C of the Criminal Code from 2012 is one of the Acts transposing the provisions of Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence and Council Framework Decision 2002/946/JHA on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.

Article 353 of the Criminal Code provides the legal definition of 'Illegal Immigrant Smuggling' and the sanctions applicable. Article 354 of the Criminal Code contains the legal definition of 'Facilitation of Unauthorized Residence' and the sanctions applicable. 'Facilitation of Unauthorized Residence' is a subsidiary criminal act meaning that it is only applicable insofar as the act did not result in a more serious criminal offense as set out in the Criminal Code. This means that if the person provides assistance to a foreign national in illegal border crossing, then this criminal offense constitutes the provision of 'Illegal Immigrant Smuggling'.

The decision-making process in terms of what constitutes migrant smuggling is the usual criminal procedure: the National Police commences investigations upon well-founded suspicion against a concrete identifiable person or against an unknown perpetrator; the Prosecution service decides whether the case has enough proof to be indicted and prosecuted before the Court, and in the final instance, it's the Court who renders the verdict.³³⁰ For legislation, the general framework is the Criminal Code, the Act on Police, the Act on Criminal Procedure and the Act on the Admission and Right of Residence of Third Country Nationals is also a part of the overall legislation that is related. The Criminal Code defines migrant smuggling and sets the punishment (as noted above), while the Act on Police and the Act on Criminal Procedure prescribe the competence and the procedures within which the police and the judicial institutions can act in the fight against migrant smuggling. The Act on the Admission and Residence of Third Country Nationals and the Act on Asylum regulate the stay and the status of refugees and asylum-seekers in the territory of Hungary.

The Hungarian asylum *acquis* has undergone modifications in the past five years, some of which seems to have had direct impact on the scale of migration flows via this route, with the most important one being the provisions on asylum detention. Following international pressure and criticism of Hungary's closed detention policy for asylum seekers in the period 2010-2012, Hungary first introduced legislative changes in January 2013, according to which a foreigner subject to a pending asylum procedure could no longer be taken or held in alien policing detention. According to Frontex, the period between January and June 2013, when no asylum detention was in place was marked by an increase of detections of irregular border crossing from 6,391 detections in 2012 to 19,951 detections in 2013.³³¹

In July 2013, the Hungarian Government further transposed provisions on asylum detention from the recast Reception Conditions Directive by introducing a new and separate statutory framework for asylum detention, distinct from immigration detention of third country nationals. From July 1st 2013 until the end of the year, following amendments to the Asylum Act brought about by Act XCIII of 2013, Section 31/A), first time asylum applicants can be detained in asylum detention³³² for a maximum period of six months with the primary aim to secure the applicant's availability during the asylum procedure if other less restrictive measures would presumably not be successful.

In July 2014, coinciding with an amendment in the Hungarian asylum policy and introduction of asylum detention, the number of detections started to decrease. However, this lasted only until August 2014 when the number of migrants from Kosovo steadily increased and reached a peak in September 2014.³³³ Nonetheless, the law from July 2013 that (re)introduced detention has contributed to migrants being discouraged from applying for asylum in Hungary.³³⁴ Thus,

³³⁰ HU/A/3

³³¹ Frontex (2014), Annual Risk Analysis, Warsaw: Frontex.

³³² The difference between police detention and asylum detention procedures is that asylum detention is not obligatorily implemented but based on the decision of the Office of Immigration and Nationality (OIN).³³²

³³³ HU/A/2

³³⁴ HU/N/2

increases and decreases in detections of irregular crossings have coincided strongly with the policy decisions on detention of asylum seekers within Hungary.³³⁵

Moreover, as of approximately November 2014, due to overburdening of reception facilities and the lack of capacity to organise transportation for the increasing number of asylum seekers, the Office of Immigration and Nationality introduced a measure of issuing a confirmation of intent to seek asylum which entitles asylum seekers to free of charge public transportation to the designated reception centre where they are supposed to go and register themselves within 24 hours.³³⁶ Most of applicants reportedly abscond during this period or within the next few days, subsequently proceeding towards their destination countries.³³⁷

In response to the evolution of the phenomenon, the Hungarian Government launched a national consultation on migration issues in March 2015.³³⁸ In order to win support for this consultation, the government has launched a billboard campaign, with posters that read, for example: "If you come to Hungary, you cannot take the jobs of Hungarians"; "If you come to Hungary, you have to respect our culture"; and "If you come to Hungary, you have to obey our laws."³³⁹ The phrasing of the national consultation survey and the billboard campaign have been heavily criticised by both national and international civil society actors³⁴⁰ and have sparked a counter-campaign.³⁴¹ The consultation is criticised by many civil society actors for using manipulative language, encouraging a negative view of migrants, connecting irregular migration with the threat of terrorism and conflating asylum-seekers with economic migrants.³⁴²

In June 2015, a few days after the announcement of the building of the fence, noted in the Policy Responses section "Serbia-Hungary", the Hungarian Ministry of Interior announced an appeal to temporarily halt transfers of asylum applicants under the Dublin agreement.³⁴³ The European Commission called Hungary for an explanation of the decision. Péter Györkös, Hungary's ambassador to the EU, claimed that the announcement was an appeal for help and solidarity from the EU.³⁴⁴ As a result of governmental actions to address the technical problems indicated earlier by 3 July, the Hungarian Dublin Unit subsequently agreed to receiving and replying to the transfer requests.

However, an authority interview confirmed that cooperation with EU Member States is by and large positive, as the willingness to collaborate is there, despite the sometimes lack of resources:

"In cooperation with EU member states I wouldn't mention any particular challenges, the willingness is there. Sometimes, capacities are lacking. For example, Frontex is pretty much overburdened with tasks and assignments and there are no separate capacities for Frontex, just the capacities that the Member States lend Frontex at its disposal. Capacity problems are there, but generally speaking the will is always there to co-operate."³⁴⁵

³³⁵ HU/A/1, HU/A/3

³³⁶ Interview HU/A/1

³³⁷ Interviews HU/A/1, HU/A/3

³³⁸ European Commission (2015) *Hungary: Government's national consultation on immigration and terrorism creates widespread debate*. <https://ec.europa.eu/migrant-integration/news/hungary-governments-national-consultation-on-immigration-and-terrorism-creates-widespread-debate?pdf=1>

³³⁹ BBC. 14 June 2015. Hungary's Poster War on Immigration. <http://www.bbc.com/news/world-europe-33091597>.

³⁴⁰ Yahoo! News. 8 June 2015. *Hungary's anti-immigration campaign sparks controversy*. <http://news.yahoo.com/hungarys-anti-immigration-campaign-sparks-controversy-17431745.html>; Euronews. 10 June 2015. *Hungary: Billboard war sparks international concern*. <http://www.euronews.com/2015/06/10/hungary-billboard-war-sparks-international-concern/>

³⁴¹ UNHCR. 19 June 2015. *UNHCR billboard in Hungary celebrates contributions by refugees*. <http://www.unhcr.org/5583d1466.html>; BBC. 8 June 2015. *Hungarian Activists arrested for defacing anti-immigration billboard*. <http://www.theguardian.com/world/2015/jun/08/hungarian-activists-anti-immigration-billboard-budapest>

³⁴² Horvathbence (2015), 'Társadalomkutatók szerint a bevándorlásról szóló konzultáció visszaél a közvélemény-kutatás módszereivel', <http://444.hu/2015/04/30/tarsadalomkutatok-szerint-a-bevandorlasrol-szolo-konzultacio-visszael-a-kozvelemeny-kutatas-modszereivel/>;

Index (2015), 'Üres borítékkal tiltakoznak a nemzeti konzultáció ellen', *Index* 15 May, http://index.hu/belfold/2015/05/15/ures_boritekkal_tiltakoznak_a_nemzeti_konzultacio_ellen/.

³⁴³ Hungarian Government. 23 June 2015. *Hungary is suspending re-admission of asylum seekers from other EU member states*.

<http://www.kormany.hu/en/ministry-of-interior/news/hungary-is-suspending-re-admission-of-asylum-seekers-from-other-eu-member-states>.

³⁴⁴ EUobserver 24 June 2015. *Hungary defends suspension of EU asylum rules*. <https://euobserver.com/justice/129276>

³⁴⁵ HU/A/3

Moreover, Hungary has transposed the provisions of Directive 2002/90/EC and the Council Framework Decision 2002/946/JHA in terms of cooperation with Member States on criminal matters, in Act CLXXX of 2012, providing a legal framework for cooperative and joint action on this topic.

An example of such intra-European cooperation includes those established between the Hungarian border police and the Slovakian and Austrian border police in terms of information sharing (e.g. on vehicles, persons, documents); with Czech and Polish police via the Slovakian police; and with Swiss and German authorities through the Austrian police.³⁴⁶

Hungary also partakes in international law enforcement co-operation based on European legislation or on international treaties. At a policy level there are regular meetings, conferences and exchanges, mostly with Austria, Germany, Serbia and Kosovo. An example of this is the PCC SEE, mentioned in the Serbia-Hungary policy responses section, which allows joint actions. The tri-partite consultations that started in 2011 with the Ministry of Interiors of Austria, Serbia and Hungary have, according to an authority interview, "already become institutionalised to some extent",³⁴⁷ and with the Memorandum of Understanding signed in Budapest on 30 June by the Ministers of Interior of the three countries, have further advanced.³⁴⁸ There are regular meetings, both on the expert and political level. There are policy papers that are regularly updated and there have been some tangible results such as the commencement of joint patrolling along the border, with the involvement of Austrian officers in the operations.

As one of the four Visegrad Group Countries, Hungary, together with Slovakia, the Czech Republic and Poland, has formulated a Joint Statement of the Heads of the Government of the Visegrad Group Countries, in which, in relation to migration, calls for a development of a "more systemic and geographically comprehensive approach to migration" and believes that the European Agenda on Migration³⁴⁹ "fails to address and find adequate solutions to migration pressure from and via the Western Balkan route".³⁵⁰ The Western Balkan Summit held in Vienna on 27 August, also sought to establish a common European answer for the refugee crisis, in which non-EU countries on the Western Balkan route, namely Serbia and the FYRoM, are also included.³⁵¹

Further concrete evidence of cooperation is the recent EU-funded project that covers law-enforcement cooperation, which was specifically noted by an authority interview as relevant. In September 2011 Austria and Hungary launched a joint response to the significant increase of illegal immigration into their countries by establishing Project FIMATHU (Facilitated Illegal Immigration Affecting Austria and Hungary), in which Frontex also participates. This project is now called "Hunting Ground" whose strategic goal is "to use the intelligence picture and risk analysis for more effective and cost-efficient border control, investigation and prosecution at the external borders and within EU territory".³⁵² The Hungarian National Bureau of Investigation is the leader of action which involves many European countries and co-ordinates all activities aimed at law enforcement operations.³⁵³ As a result, 891 smuggling incidents were identified in its first year in the two countries. Within the project relevant criminal intelligence was shared with Europol. The successful results have meant that interest in the project has grown to the extent that 10 new countries had joined,

³⁴⁶ HU/A/2

³⁴⁷ HU/A/3

³⁴⁸ Website of the Hungarian Government, (2015) 'Serbian, Austrian and Hungarian interior ministers agreed on cooperation', 1 July. <http://www.kormany.hu/en/ministry-of-interior/news-serbian-austrian-and-hungarian-interior-ministers-agreed-on-cooperation>.

³⁴⁹ EC (European Commission) (2015), *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*. http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf. Accessed 28 August 2015.

³⁵⁰ Visegrad Group (2015), *Joint Statement of the Heads of the Government of the Visegrad Group Countries*. <http://www.visegradgroup.eu/calendar/2015/joint-statement-of-the>. Accessed 28 August 2015.

³⁵¹ J. Huggler (2015), 'Angela Merkel calls on EU to help Western Balkans face migrant influx' The Telegraph 28 August. <http://www.telegraph.co.uk/news/worldnews/europe/serbia/11829354/Angela-Merkel-calls-on-EU-to-help-Western-Balkans-face-migrant-influx.html>.

³⁵² Europol supports successful cooperation between Austria and Hungary against illegal immigration <https://www.europol.europa.eu/node/1893>, accessed on 18 May 2015

³⁵³ HU/A/3

namely: Bulgaria, Croatia, Czech Republic, Germany, Poland, Romania, Serbia, Slovakia, Slovenia and Switzerland. The common aim is to dismantle the illegal migration networks operating via the Western Balkans as well as in other European countries.³⁵⁴

However, cooperation with countries of departure outside of the Western Balkan region is limited:

"I'm afraid we [Ministry of Interior, Department of EU Cooperation] don't co-operate with all countries of departure. At least in the Western Balkan region we have several frameworks: SELEC (Southeast European Law Enforcement Centre),, the Police Cooperation Convention for SEE and, of course, some bi-lateral treaties, and on political level, the living contacts either through Embassies or between the partner Ministries. We have direct contacts with the MOIs in the region, but that's mostly for the Western Balkans."³⁵⁵

Keeping in mind recent arrivals from Kosovo, however, there is cooperation with authorities there in terms of capacity building in particular: "We have considerations mostly when it comes to Kosovo how we could assist them to ease the current pressure mostly by capacity building there and by international assistance, development assistance, but that's mostly outside of the scope of the MOI."³⁵⁶ In that sense, there is an on-going twinning project with Kosovo implemented by Germany and Hungarian National Bureau of Investigation focusing on strengthening the investigation capacities of the Kosovo Police and the Kosovo Prosecutors, in order to record significant progress in the fight against organised crime and corruption.

Finally, in addition to the cooperative frameworks previously noted in this section and in the section "Policies directed towards the specific routes", Hungary participates in a number of additional intergovernmental processes and dialogues that deal with migration management or irregular migration more generally, including: the Budapest Process, the Mediterranean Transit Migration Dialogue, the Prague Process and the Euro-Mediterranean Partnership.

³⁵⁴ Europol (2012), Europol supports successful cooperation between Austria and Hungary against illegal immigration. <https://www.europol.europa.eu/node/1893>. Accessed 18 May 2015.

³⁵⁵ HU/A/3

³⁵⁶ HU/A/3

5. Conclusions

Four themes emerge from the research regarding the aforementioned route. Firstly, the rise of migrant smuggling as an alternative to the absence of legal pathways of entry, whereby smuggling is essentially a business, structured around profit, reputation and minimisation of risk. Like all businesses that are successful, it meets a particular demand. Almost all interviews across the three countries, with authorities, non-governmental organisations, smugglers and migrants concur that sanctioning the supply only will not lower the demand. In other words, curtailing smuggling will not reduce the need for it nor the provision of the service. Rather it will only make it more expensive, riskier (to the life of the migrant primarily) and further limit the options for those truly in need of a safe haven. As long as there is a market, as long as there is demand, there will be supply and it is a profitable supply since "immigration restrictions are a stimulant for growth of irregular migration, and particularly assisted irregular migration or smuggling: the higher the hurdles, the greater the profits to be made."³⁵⁷

Secondly, there is no one type of smuggling. From Greece to Hungary migrants can opt for a variation of ways and means of reaching their destination. Each comes at a price and these prices fluctuate depending on nationalities, modes of transport, time of year, level of demand of the specific route and risks. Some modus operandi converge, others differ significantly, however in the end attempting to tackle migrant smuggling as a singular uniform type of activity appears to be doomed from the beginning. Smugglers adapt to the policies around them and evolve; they are fundamentally more flexible than the policies that attempt to tackle the networks. Interviews showed that though the legal system defines "smuggling" as any transportation or assistance offered to the irregular migrant, there are in fact, different types of "smugglers" involved.

1. There are local smugglers, who function at a local level and limit themselves to specific routes, for example specifically transporting only from the maritime Turkish-Greek border or specifically from the land route for exit.
2. There are smugglers who are organised on a larger scale, creating small chains of interaction from the point of departure to the point of arrival.
3. There are those who participate in specific parts of the journey, for example the drivers of lorries, the travel agents who arrange fake papers, the hotel owners near border towns and so on, who are also legally considered "smugglers", but who are not necessarily a part of an organised network or informed of its existence (this was confirmed by almost all the interviews with migrants in the framework of the current research).
4. There are also "one time" smugglers, who work independently and undertake such operations for a limited time or participate in them, seeking to profit and then leave the business.

By approaching all as migrant smugglers, the inherent risk is in apprehending the "small fish" and never bringing down the chain, because the crucial links are always the moneymen and the smuggler who provides the transportation means.

Thirdly, it is striking that as we followed migrants through the route, we encountered repeatedly the notion of loose smuggling networks, in one form or another. In fact, the "organisational" part of migrant smuggling appears to be in knowing people in different countries who can provide specific services. Migrant smuggling via this route is not organised like hierarchical mafia-type organisations, which enables its flexibility and makes it harder to identify and respond to. Though undoubtedly a criminal activity since it is based on illegal profit and exploitation, it increasingly seems that enforcement alone cannot tackle the problem.

Fourthly, the continuous divergence in nationalities of smugglers and migrants alike, from Greece to Hungary but also throughout the south-eastern corridor and the Balkans, indicates that the root of the issue is the supply-demand

³⁵⁷ Bhabha, J. (2005), 'Human smuggling, migration and human rights', paper presented at the 'Migration: Human Rights Protection of Smuggled Persons' at The International Council on Human Rights Policy Review Meeting, Geneva, 25-26 July 2005.

imbalance. Not only does the EU appear to stay away from the “supply” aspect of the equation, i.e. limited legal avenues for those in need, but the policies of cooperation with Third Countries – from where migration originates – appear to be more focused on enforcement and deterrence, rather than tackling the root causes of migration. All of the countries in the specific route noted extensive and good cooperation with their neighbours, institutions and organisations but the focus is predominantly on responding to the problem when it appears. The policies are reactive and enforcement-based.

In relation to the Western Balkan route as it develops from Greece onwards, cooperation between the countries is still limited, especially between Greece and the Former Yugoslav Republic of Macedonia (though this is likely a product of foreign policy relations) but there is also an absence of systematic exchange of information along the entire route, i.e. Greece – the Former Yugoslav Republic of Macedonia – Serbia – Hungary, although communication among the various countries along the route does vary. Cooperation in combating migrant smuggling along the Western Balkan route is the most intensive with Serbia, in particular with Serbian police forces. Other countries Hungary cooperates with effectively are some of the destination countries of migration, mainly Austria and Germany and Greece in the context of the EU. Nonetheless, with the exception of the absence of a cooperative institutionalised framework between Greece and the Former Yugoslav Republic of Macedonia, states appear to make a considerable effort in cooperating directly or indirectly (through forums) in exchanging information. The EUROPOL framework appears to be the strongest and perhaps better organised to facilitate cooperation and joint operations, as is FRONTEX, the latter also in terms of training of police officers for screening purposes. In general, there is room for more policy that explicitly focuses on migrant smuggling and especially on the Western Balkan route of irregular migration. Additionally, policy and operational-level cooperation between all countries along the route, not only countries that share a border, shall have a positive impact on combating migrant smuggling.

6. Interviews and consultations

Information included here is based on the level of consent given by each interviewee. Interview codes have been produced by combining the place of interview(ee), with the type of interview (w.g. migrant, NGO, authority), with the nationality of the interviewee (only for interviews with migrants and smugglers) and the number of the interview.

	Code	Organisation	Type
1	GR/A/1	Frontex	Authority
2	GR/N/2	French Media	Stakeholder
3	GR/A/3	Law Enforcement Agency (GR)	Authority
4	GR/A/4	Asylum Service	Authority
5	GR/A/5	Asylum Service	Authority
6	GR/I/06	IOM	International organisation
7	GR/N/07	MSF (GR)	NGO
8	GR/A/08	Ministry of Foreign Affairs	Authority
9	GR/A/09	Law Enforcement Agency (GR)	Authority
10	GR/A/10	Public Prosecutors Office	Authority
11	GR/M/SY/01		Migrant
12	GR/M/AF/02		Migrant
13	GR/S/AF/03		Smuggler
14	GR/S/SY/04		Smuggler
15	GR/M/SY/05		Migrant
16	GR/M/AF/06		Migrant
17	GR/M/AF/07		Migrant

18	GR/M/SY/08		Migrant
19	GR/M/SY/09		Migrant
20	GR/S/M/10		Migrant
21	HU/A/1	National Bureau of Investigation	Authority
22	HU/A/2	Csongrád County Police	Authority
23	HU/A/3	Ministry of Interior, Department of EU Cooperation	Authority
24	HU/N/1	Menedék	NGO
25	HU/N/2	N/A	NGO
26	RS/N/1	Asylum Protection Center APC / CZA	NGO
27	HU/M/IQ/1		Migrant
28	HU/M/AF/2		Migrant
29	HU/M/NG/3		Migrant
30	HU/M/SD/4		Migrant
31	HU/M/SD/5		Migrant
32	HU/M/SY/6		Migrant
33	HU/M/SY/7		Migrant
34	HU/M/SY/8		Migrant
35	HU/M/PK/9		Migrant
36	HU/M/GN/10		Migrant
37	HU/M/MI/11		Migrant
38	MK/A/1	Ministry of Internal Affairs	Authority

39	MK/A/2	Ministry of Internal Affairs	Authority
40	MK/A/3	Ministry of Internal Affairs	Authority
41	MK/A/4	Ministry of Internal Affairs	Authority
42	MK/A/5	Ministry of Internal Affairs	Authority
45	MK/IT/1	MARRI Regional Centre	International Organization
46	MK/IT/2	UNHCR Skopje	International Organization
47	MK/IT/3	IOM Skopje	International Organization
48	MK/O/1	Al-Jazeera TV Balkans	Media
49	MK/M/IQ/1		Migrant
50	MK/M/SY/1		Migrant
51	MK/M/SY/2		Migrant
52	MK/M/SY/3		Migrant
53	MK/M/IQ/2		Migrant
54	MK/S/MK/1		Smuggler
55	MK/S/MK/2		Smuggler

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8. Annex

Annex 1: Table 1. Detected persons with illegal stay in the Former Yugoslav Republic of Macedonia (2009-2011)
Source: Resolution for Migration Policy of the R. Macedonia (2015-2020)

Nationality	2009	2010	2011
Greece	1	1	1
Albania	236	267	124
Afghanistan	24	57	52
Bulgaria	1	10	4
Serbia	5	5	12
Kosovo	2	13	14
Palestine	-	10	3
Somalia	-	7	6
Morocco	-	2	11
Pakistan	-	-	17
Other	3	7	15
Total	272	333	259

Annex 2: Table 2. Number of illegal crossings of the borders of R. Macedonia (2012-2014) *Source: Annual Reports of the National Rapporteur for Trafficking in Human Beings (THB) and Illegal Migration (2012, 2013, 2014-draft)*³⁵⁸

Nationality	2012	2013	2014	2015 (Jan-Feb)
Albania	328	400	624	34
Afghanistan	65	134	291	118
Syria	/	116	570	176
Pakistan	88	73	21	15
Macedonia	78	46	67	67
Ivory Coast	/	36	2	1
Mali	/	36	9	/
Somalia	34	34	42	28
Senegal	1	31	/	/
Algeria	5	27	7	/
Serbia	12	12	7	/
Eritrea	4	11	15	/
Bangladesh	4	26	5	1
Other	63	150	90	41
Total	682	1132 (increase of 54,6% compared to 2012)	1750 (increase of 156% compared to 2012)	481

Annex 3: Table 3. Number of asylum claims in the Former Yugoslav Republic of Macedonia (2009-2015). *Source: Asylum section, Ministry of Internal Affairs*

Number of asylum claims in R. Macedonia	
2009	88
2010	156
2011	719
2012	527
2013	1364
2014	1249
2015 (January- 10 March)	374

³⁵⁸ The annual reports of the National rapporteur for trafficking in human beings and illegal migration are available here: <http://www.nacionalnakomisija.gov.mk/nacionalen-izvestuvach>. Accessed 01.04.2015.

Annex 4: Table 4. Top 10 nationalities of apprehended Third Country Nationals for illegal entry and stay in the Former Yugoslav Republic of Macedonia (**2009-2014)**; Source: Border Police, Ministry of Internal Affairs of the Former Yugoslav Republic of Macedonia

	2009		2010		2011		2012		2013		2014		2015 (Jan-Feb)
Albania	115	Albania	892	Albania	21	Albania	32	Albania	40	Albania	62	Syria	17
	5				6		8		0		4		6
Afghanista n	60	Kosovo	30	Afghanista n	57	Pakistan	88	Afghanista n	13	Syria	57	Afghanista n	11
									4		0		8
Kosovo	40	Palestine	17	Kosovo	37	Afghanista n	65	Syria	11	Afghanista n	29	Albania	34
									6		1		
Serbia	9	Afghanis tan	16	Pakistan	23	Somalia	34	Pakistan	73	Somalia	42	Somalia	28
Greece	5	Bulgaria	13	Serbia	13	Kosovo	21	Ivory Coast	36	Pakistan	21	Iraq	21
Palestine	4	Somalia	10	Somalia	11	Serbia	12	Mali	36	Palestine	19	Pakistan	15
China	2	Greece	8	Morocco	11	Palestine	10	Somalia	34	Eritrea	15	Kosovo	6
The Netherland s	2	Serbia	7	Bulgaria	4	Morocco	9	Senegal	31	Kosovo	15	Italia	4
India	1	Germany	4	Iraq	4	Turkey	9	Alegria	27	Greece	11	Sierra Leone	3