



Border Violence
Monitoring Network



CENTRE FOR PEACE STUDIES

Shrinking Spaces:

Report on Criminalisation of Solidarity in
the Western Balkans

*A joint project of BVMN activists, supported by network
member Centre for Peace Studies*

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Introduction

The phenomenon of criminalisation of solidarity towards people on the move¹ has been taking its turn throughout Europe. European countries rely on restrictive policies that disable access to the system of international protection. The reversal of human rights systems extends through the criminalisation of those providing assistance and protection to people on the move where states fail to do so. The scope of this phenomenon and its impact on both, people on the move and their supporters, has been addressed by several international organisations like [Amnesty International](#) and [Caritas Europa](#) as well as the [Institute of Race Relations](#), [Open Democracy](#), the research platform on migration and asylum [ReSoma](#) and the Independent Expert on Human Rights and Solidarity of the United Nations, [Obiora Chinedu Okafor](#) - just to mention a few statements.

Throughout the past years, the media and the general public rightly focused on the criminalisation of search and rescue operations at sea, the last straw of salvation for thousands of people on the move at the risk of drowning. Nevertheless, policies and practices criminalising support of people on the move became visible throughout Europe, especially along the routes of people seeking safety in the EU. Also, in the Western Balkans, activists and organisations assisting people on the move are facing increased repression and criminalisation.

After the temporary formalisation of the transit corridor across the Western Balkans amidst the migration movement towards central and Western Europe in 2015, EU member states gradually decided to reinforce their borders and block people seeking international protection from reaching the Schengen zone.

¹ The Geneva Refugee Convention, only refers to people “who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.” The term “people on the move” , includes all people who, for various other reasons, leave their country of origin and flee from circumstances there. It seeks to broaden the definition of refugees taking into account the dramatic impacts of climate change, economic and social inequality, political authoritarianism, terrorism and organized crime. Furthermore, the term specifically recognizes people in the process of fleeing who are in transit or stranded. Looking specifically at the situation in the Western Balkans, a majority of people having fled their country of origin, seek to continue their journey to seek safety in the European Union.

The end of the so-called “Balkan Corridor”² is characterised through the fortification of the Hungarian border in 2015. Eventually Northern Macedonia, Croatia and Slovenia closed their borders to people on the move in early 2016 after countries of destination like Austria had closed their borders, too.

This political move, nevertheless, did not stop people from fleeing towards the EU, nor did it seal the route. Instead, it made the journeys more expensive, dangerous, and deadly³. Since then, governments and local communities at the margins of the EU have been left to care and provide for people who are stuck in limbo at its external borders. There they endure inhumane living conditions in overcrowded official camps or informal settlements, e.g. in abandoned buildings; they lack possibilities to regulate their residency status or receive international protection, are exposed to ill-treatment and discrimination by local authorities, police, and residents, as well as brutal violence and practices that amount to [torture](#) when they attempt to cross the borders into the EU to seek asylum. Amidst these conditions, local as well as international civil society organisations (CSO) and grassroots movements are providing the most basic yet desperately needed support. Therefore, they have become vital as local authorities’ and EU member states’ politics of deterrence leave people in search of protection exposed to inhumane treatment and conditions.

Aim of the report

This report provides an introduction to the phenomenon of criminalisation and repression of solidarity, humanitarian action, and human rights advocacy in the Western Balkan region. It seeks to provide an overview to provide examples to the reader, map emerging trends and patterns of criminalisation, and illustrate the impact on civil society organisations (CSOs) and individuals, their work and – eventually – on people on the move. Furthermore, this publication seeks to highlight the possible negative consequences of

²For more information about this term and theoretical considerations on the formation and closure of the , Balkan Corridor ‘, see Beznec et al. 2016

³ Beznec, et al., 2016, p. 50

criminalisation, repression, and policing on civil society, democratic principles, and human rights on a broader scale.

At the same time, we emphasise that this report is far from complete; pressure on people on the move as well as on their supporters is increasing. The events at the Turkish-Greek borders in early 2020, elections in Serbia and Bosnia and Herzegovina, the global Covid-19 pandemic, and the devastating Moria blaze, unravel at this writing and threaten to leave people on the move with even less protection and support. Therefore, this report sets a starting point for further reporting on, and action against criminalisation and repression of solidarity and support work.

Methodology

This report is based on semi-structured interviews conducted between January and November 2019 and several follow-ups with different grassroots actors who were impacted by forms of criminalisation of solidarity. Our interviewees reflected on the period between 2017 and 2019, when the temporary formalised corridor across the region had already been closed. All interviewees were active in one or more of the following countries: Serbia, Croatia, Bosnia and Herzegovina, Slovenia. Given the framework of our research, this report cannot elaborate the distinct politic and social context of all settings mentioned but emphasises their importance when diving deeper into the dynamics at play. Therefore, this report provides an overview and maps emerging patterns criminalisation of solidarity. The examples used seek to illustrate the situation and experiences of repression of CSOs in the region; however, these are by no means isolated cases. A full list of conducted interviews can be found in chapter six, some interviewees preferred to remain anonymous to avoid further repression.

Ahead of a deeper analysis of the findings, the notion "criminalisation of solidarity" requires further explanation. As one of the three pillars of the "shrinking space" phenomenon⁴ criminalisation, alongside de-legitimisation and stigmatisation provide our

⁴ Twomey, 2017, p. 4 https://www.tni.org/files/publication-downloads/on_shrinking_space_2.pdf

framework for analysis. Stigmatisation, de-legitimisation, and criminalisation of civil actions, the support of people on the move in this case, reduce the space for those civil society actors to perform actions which stand in contrast to, in this case, the dominant policies of deterrence of people the move. This report uses the term criminalisation to speak about informal criminalisation, including arbitrary police scrutiny and intimidation as well as formal criminalisation like administrative and criminal charges. Both are applied to intimidate CSOs and individuals and limit the space for support work and activism.

Chapter two provides background information on potential drivers of criminalisation of solidarity based on interview findings. Chapter three addresses the forms of criminalisation interviewees experienced. Based on the data collected, chapter four provides analysis of general tendencies of formal and informal criminalisation of solidarity and shows the impact on activities of organisations and individuals who have been - and keep assisting people on the move.

Contextualisation

What makes humanitarians and CSOs targets of repression?

The interviews conducted for this report provide insights into possible determinants of criminalisation of solidarity and allows to better understand why some actors have become targets of police repression.

Supporters of people on the move are scapegoated for presence of people on the move and defamed as human smugglers.

In recent years, civil society organisations and individuals supporting people on the move are frequently accused of being involved in human smuggling or serving as a “pull-factor” . This “semantic drift” ⁵ of narratives in politics and media feeds into the connection made between humanitarian aid and bogus accusations of smuggling by humanitarians. These baseless accusations shape the public narrative, stigmatising and

⁵ Twomey, 2017, p. 67 https://www.tni.org/files/publication-downloads/on_shrinking_space_2.pdf

criminalising humanitarian support to people on the move. Furthermore, humanitarian support, based on the needs of people on the move, may easily be interpreted as “facilitation of border crossing” or what has been termed the “facilitation of unauthorised entry, transit, and residence”.⁶ The term “facilitation” allows for broad interpretation and to delegitimise for example, the distribution of sleeping bags and other items essential for surviving in harsh conditions outside official overcrowded shelters and are crucial for going on “the game” - as the attempts to cross the borders into EU territory are commonly termed.

Aside from direct interference in the organisations' humanitarian efforts, smear campaigns and defamation in the media make support work more difficult and dangerous. Statements by high-ranking politicians and media reports associate CSOs with people smugglers or scapegoat them for the presence of people on the move. Furthermore, humanitarian assistance is often depicted as a so-called “pull factor”, a populist claim, that aid itself provides an incentive for people to flee to this particular place. The negative narrative stigmatises, delegitimises and criminalises people on the move - and their supporters – incited hate, might decrease public support for the work of CSOs, and could ultimately limit donations and access to funding. Furthermore, it fuels and legitimises threats and violent attacks against human rights defenders and limits the civic space for civil society engagement. The office and car of Are You Serious (AYS), a Zagreb-based organisation supporting refugees, were vandalised several times. These attacks seemed to be a direct reaction to the organisation’ s public outspokenness on issues of rights of people on the move and criticism of violence and illegal push-backs.⁷ Another organisation, Centre for Peace Studies (CPS) faced baseless accusations and defamation from political officials due to their advocacy activities excluding from the dialogue with relevant state institutions, groups, and circles that they had been part of for years.⁸

⁶ Council of the European Union 2002

⁷ Interview 13, 2019, Croatia

⁸ Interview 5, 2019, Croatia

CSOs provide support outside of official camps

Migration has increasingly been framed as a security issue for the EU and its member states, leading to the fortification and militarisation of its external borders. The externalisation of borders through deals with e.g. Turkey, Libya, and countries in the Sahel allows the EU member states to manage migration, more specifically people, outside their territories. Similarly, countries along the so-called "Balkan Route" have turned from transit countries into places where people are stuck - often in inhumane conditions and without access to protection. In this context, centralised shelters - ran by government agencies, or the International Organization for Migration (IOM), or implementing partners, have a dual function. On the one hand, they provide urgently needed shelter and basic care. On the other hand, they also serve to confine people and to control and limit their movements. The role of refugee camps in regard to management of migration needs to be taken into account when looking at repression and criminalisation of those providing assistance outside camp structures.

An investigation by [Amnesty International](#) into the situation in different official refugee camps in Bosnia and Herzegovina showed a series of shortcomings in hygiene standards, like out-of-use toilets, a lack of hot water in the showers and no separated washing rooms for different gender, as well as undernourishment. The insufficient provision of meals reportedly poses a threat to people's health, especially to families with children or pregnant women⁹. Interviewees also pointed to a dual security problem: camp residents, on the one hand, worry about their own security inside the camp, due to the high level of tensions among themselves. On the other hand, incidents of excessive use of force by the private security company staff in the camp add another layer of insecurity (as videos of Bira camp reveal¹⁰). Camps are often running beyond their maximum capacity and at times do not accept new people asking for shelter. This has forced people to live in informal camps in the central hubs of bigger cities, at the margins of official camps, or close to border crossings. Places close to the EU external border like Velika Kladuša and Bihać in

⁹ European Parliamentary Research Service, 2019 <http://www.statewatch.org/news/2019/nov/ep-situation-of-migrants-in-Bosnia-and-Herzegovina.pdf>

¹⁰ [Video](#) AYS, 26.01.2019

Bosnia and Herzegovina, as well as Šid and Subotica in Serbia have become important places of transit for people on the move where many live outside official structures. They often receive local and international volunteer-based support, which is often spontaneous and directly responds to people' s needs. Grassroots-level solidarity and assistance to people on the move have been crucial throughout the past years, especially due to the lack of adequate response by local and national authorities as well as the European Union (EU).

People living in unofficial structures, as well as their supporters, have come under increased pressure as authorities are eager to establish control, regardless of the insufficient support provided by responsible government authorities. The 2019 report of the Institute of Race Relation shows, there is a general tendency of prosecuting people for assisting people on the move outside of official camp structures.¹¹ Efforts by government agencies and international bodies to repress solidarity structures, threaten to gradually erode the role and power of civil society actors.

Adding to this, authorities seek to remove people on the move from public spaces to satisfy their constituency, while aid work might increase their presence in public spaces. Groups we spoke to explained that public distributions of necessary items are increasingly viewed as problematic since they increase visibility - therefore, authorities hinder or even shut down distributions in return. Interviewees also got the impression that their work came under increasing pressure, if they publicly exposed the inhumane living conditions of people on the move, pointing to the failures of governments and authorities to provide minimum standards and uphold humane treatment.

¹¹ Twomey, 2017, p. 4 https://www.tni.org/files/publication-downloads/on_shrinking_space_2.pdf

Documenting and reporting illegal push-backs and police violence against people on the move makes volunteers and staff of local and international grassroots CSOs targets of repressive acts

During their engagement in the border areas and transit places, CSO volunteers witness people on the moves' unbearable living conditions and police brutality¹². Aside from providing vital humanitarian assistance, some actors, like those within the Border Violence Monitoring Network, seek to shed a light on, and challenge the brutality of EU migration control. Several groups gather testimonies of illegal push-backs¹³ and police violence mainly perpetrated by Croatian and Hungarian authorities to expose the systematic nature of these practices. Their efforts are countered with denial and inaction of politicians¹⁴. Additionally, civil society actors who speak out about push-backs and police violence have, in some cases, become targets of police repression.

In the case of the Centre for Peace Studies and Are You Syrious, two NGOs based in Croatia, their public condemnation of illegal push-backs by Croatian police led to the systematic disabling of their work. Employees and volunteers of the organisations experienced police intimidation when they were escorting persons who expressed their intention to seek international protection to the local police stations. However, this was just the tip of the ice-berg. Actions taken by the Croatian police against the CPS, AYS, and the lawyer who provided legal assistance to the family of little [Madina Hussiny](#) were extremely dubious and illogical. Even the Minister of Interior publicly accused CPS and AYS to have handed out telephone numbers, instructions, money, and instructions how to enter Croatia to people on the move in Serbia; thus, publicly spreading unfunded

¹² see AYS' [report](#) about internal violence against people on the move in Bosnia and Herzegovina and the documentation of illegal push-backs by the [Border Violence Monitoring Network](#).

¹³ "Push-backs are a set of state measures by which refugees and migrants are forced back over a border – generally immediately after they crossed it – without consideration of their individual circumstances and without any possibility to apply for asylum or to put forward arguments against the measures taken. Push-backs violate – among other laws – the prohibition of collective expulsions stipulated in the European Convention on Human Rights." ([ECCHR 2020](#)).

¹⁴ In a debate on 14th January 2020, the Croatian Prime Minister Andrej Plenković calls the well documented human rights violations "rumors" and „fake news“ ([see ARD Wien/Südosteuropa 2020](#)). Two weeks later in a meeting of the Committee on Civil Liberties, Justice and Home Affairs, the Minister of Interior Davor Božinović denies that practices of illegal push-backs and police violence take place at the Croatian border ([see Committee on Civil Liberties, Justice and Home Affairs 2020](#)).

accusations of illegal activities, without due process, a blatant defamation of their work. Lastly, the Ministry of Interior refused to renew the contract with CPS and AYS to allow them to enter the Reception Centre in Zagreb, and by doing so prevented them from providing crucial educational and legal support to refugees living there. To publicly address the treatment they face by authorities, CPS and AYS decided to organise a press conference in April 2018. The night before, some of their staff was asked to appear at the police station for questioning the next morning – at the time of the press conference. Police officials showed up at the NGO members private homes to deliver the message – a practice which is highly uncommon in Croatia and was perceived as yet another attempt of intimidation¹⁵.

Several actors of the Border Violence Monitoring Network, who document systematic illegal push-backs and police violence against people on the move in the Western Balkans region have become targets of intimidation and faced obstacles to carry out their humanitarian support activities. Whereby it is hard to define if these acts of informal criminalisation result from their reporting activities, their humanitarian engagement, or both, it suggests that these factors are connected.

General tendencies of criminalisation of solidarity across the Western Balkans

Formal criminalisation

Cases of formal criminalisation usually receive wider recognition and attention from the media as well as broad sympathy and support. Putting activists and humanitarians on trial may be used to state an example and discourage others from continuing their support activities. Criminal or misdemeanour charges have been pressed against individuals, based on either the “facilitation of illegal border crossings” or the “facilitation of illegal or undocumented stay” in a country, which are used to criminalise acts of solidarity, like giving someone a ride or a place to sleep. In the cases cited in this report, the accusations

¹⁵ see AYS’ 2018 [report](#) “When government turn against volunteers”

against the volunteers were not proven correct. Yet, they influence public opinion and discredit supporters of people on the move and the crucial assistance they provide. The EU's "war on smuggling" and the aim to prevent undesired migration has led member states to adopt legislation that criminalises humanitarian approaches. While Hungary provides an extreme example of this trend in the region, we express our grave concerns that governments will increasingly crackdown on CSOs and restrict acts of solidarity with people on the move. Moreover, EU legislation makes it fairly easy to criminalise acts of solidarity under the EU Facilitation Directives which aims to combat the "facilitation of unauthorised entry, transit and stay" , but fails to protect humanitarian actors. More precisely, the EU legislative framework leaves it to the member states to protect humanitarians from criminalisation, which has led to legal uncertainty for those who support people on the move. By failing to exclude humanitarian organisation and family members, the Facilitators Package is not in line with the UN Convention against transnational organised crime, its protocols, and guidelines. Only in four EU member states, criminal proceedings against human smuggling require proof of financial or material gain¹⁶.

According to the UN Convention, human smuggling shall only be criminalised if it is tied to profit and thus protect humanitarian actors from criminalisation. Non-member states in the Western Balkans are also bound to international law and should, therefore, protect humanitarians from being criminalised. Instead, arbitrary policing and repression against people on the move and their supporters threaten to undermine basic human rights and the rule of law.

¹⁶ Carrera et al. 2018, [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/608838/IPOL_STU\(2018\)608838_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/608838/IPOL_STU(2018)608838_EN.pdf)

INFOBOX I: The case of Are You Syrious

In Croatia, Are You Syrious had to fight against allegations of illegal conduct. In the case of one of their volunteers, the Ministry of Interior pressed charges for “facilitating illegal migration” , whereby in April 2018 they recommended the highest prescribed penalty, including imprisonment, an EUR 43,000 fine, and the ban of AYS’ work. In September 2019, the court found the volunteer guilty on the grounds of “unconscious/inadvertent negligence” , but rejected the recommended penalties, issuing a smaller EUR 8,000 fine. AYS has challenged this decision and is awaiting the outcome of the appeal. Their volunteer approached a police control in March 2018 near the Croatian border to alert police to a family of asylum seekers huddled in a field near Strošinci - at this time the family, including several small children, had already been on Croatian soil. Observing such instances and being present until the refugees meet the police is part of AYS' activities because many fear imminent push-backs once they reach the countrys territory. The AYS volunteer was accused of giving signals to the family to assist their crossing from Serbia into Croatia. These allegations were proven false by the organisation during the court hearing. AYS believes that the pressure and other punitive actions against their organisation are in retaliation for the fact that they have supported the family in their court case against Croatian police, which was initiated after the death of their daughter Madina Hussiny, who was killed by a train after she and her family were allegedly pushed back by Croatian police. (for more information see [AYS' statement](#) as well as [Amnesty International's observations](#) of the case). AYS has been facing pressure from state authorities, surveillance, court procedures, and smear campaigns for more than six years. Defamation escalated in violence against the organisation, such as death threats and destruction of property. On November 5, AYS revealed that criminalisation has reached a new level. Authorities are targeting the partner of AYS' program manager Tajana Tadić. Front Line Defenders claims that Tajana’ s partner is targeted because of her activities to defend the rights of refugees and people on the move (for more information on this ongoing process see [Front Line Defenders](#) summary).

INFOBOX II: The case of Pravno Informacijski Center

A case of formal criminalisation in Slovenia shows the correlation between the criminalisation of nongovernmental organisations and their public condemnation of police violence on the borders of Slovenia. NGO Pravno Informacijski Center (PIC) provides free legal aid to asylum seekers. Their direct work with asylum seekers led to documenting pushbacks happening on Slovenian borders. Since the access to the system of international protection was hindered, PIC started informing the police of the intention of people who wanted to apply for international protection and were located on the territory of Slovenia. Their legal and emergency assistance to persons who wanted to seek asylum turned PIC into the target of radical political strategy that publicly accused non-governmental organisations of "organising migration" (see [BVMN report](#) on illegal practice of collective expulsion on Slovene-Croatian border by InfoKolpa). This narrative led to formal criminalisation. One PIC employee who informed the police about a person who wanted to express their intention to seek asylum and who was on the territory of Slovenia, faced with criminal charges for smuggling. Through this formal criminalisation the government tried to equate legal and emergency assistance to migrant smuggling. Although such charges could have demotivated this organisation from assisting people on the move, they are still operating and exhausting possible legal remedies to prove that they were not breaching the law.

Policing, repression and informal criminalisation

Repression, threats and intimidation, is an important aspect of the phenomenon of criminalisation of solidarity and has severe impacts. In fact, informal criminalisation in its various manifestations is a common reality in the area examined by this report, whereas formal prosecution is yet an exception.

Informal criminalisation of solidarity and humanitarian assistance to people on the move often manifests in attempts to suppress autonomously organised humanitarian action. Providers of assistance and the assistance itself is presented as a so-called "pull-factor" and deemed responsible for the presence of people on the move themselves. Furthermore, those narratives link assistance covering the basic needs of people on the move by non-governmental means to what has been termed the "facilitation of illegal stay"¹⁷. This comes at a time when the provision of humanitarian assistance in the region

¹⁷ Council of the European Union, 2002, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002L0090>

– given the transit character of the countries on the route to the EU - is still largely insufficient and fails to cover people's basic needs.

Intimidation and repression by authorities is by no means less destructive than formal criminalisation. Rather, the arbitrariness of actions threatens to erode rule of law and make the space for solidarity with people on the move and humanitarian work insecure and unpredictable. Direct acts of repression and intimidation against civil society actors are often carried out by local police and authorities. Furthermore, some media outlets and politicians have contributed to the hostile narrative that stigmatises and delegitimises people on the move and their supporters. The following chapter will provide further information on the different forms of informal criminalisation that have been reported by actors in the field.

Scrutiny

For many of those supporting people on the move in the region, police scrutiny and surveillance has become a constant aspect accompanying their work in the field. As people on the move themselves and the locations they gather at, are often under high police scrutiny, it naturally affects supporters as well. Research for this report shows that civil society groups and activists have also themselves become targets of police scrutiny. Identity checks are used selectively and more frequently as a method to show presence and intimidate volunteers who carry out activities that authorities disapprove of. Interviewees have also reported that police officials have entered their private homes, for example for identity checks or under other suspicions, even without presenting a legal warrant.¹⁸ In one incident, police officials used violence against one of the residents, searched the house without a warrant, and refused to speak to the group's lawyer.¹⁹ The described actions show how officials try to intimidate supporters of people on the move by transmitting the feeling of being under surveillance.

¹⁸ Interview 7, 11, 2019, Serbia

¹⁹ Interview 4, 2019, Serbia

"It' s like paranoia is on the mind of everyone. Of the volunteers, you' re afraid of offering a shower to someone. Now it is on your mind, they (the police) managed to do that. You feel like a criminal because you are offering tea or a shower to someone. Even when I am walking in the street, I felt like I should look on the ground, so no one realises that I am not from here. They made those things wrong, like offering someone a tea."²⁰

Civil society organisations that rely on volunteers to carry out support activities, might not be able to continue if intimidation and fear deter people from participating. This affects local as well as international volunteer-based groups: Regarding local volunteers, the concerns about the impact of their action on their families and day-to-day lives might discourage some from taking further action. Meanwhile, international volunteers, are targeted with bureaucratic hurdles that might force them to leave the country and pay a fine. An interviewee described that her former colleague had stopped volunteering after receiving death threats related to supporting people on the move.²¹

Obstruction of work of individuals and organisations

Authorities further hindered civil society organisations from providing basic assistance to people on the move. Several persons interviewed for this report described how distributions of vital food and non-food items were prevented and volunteers kept from providing their services in the respective locations.²²

These findings suggest, that the location and degree of visibility of support work and people on the move are key drivers for authorities to ban or hinder it. Distribution sites outside the city centre, hidden from the public eye, seemed more likely to be tolerated. This is part of a wider agenda of authorities seeking to control and restrict people on the move' s presence and movements. Confinement in remote camps with restricted access for independent CSOs and little possibilities to connect outside the camps' walls is a common tool to reduce public visibility of people on the move. Prohibition of distributions,

²⁰Interview 14, 2019, Bosnia and Herzegovina

²¹Interview 13, 2019, Croatia

²²Interview 7, 2019, Serbia; Interview 9, 2019, Bosnia and Herzegovina; Interview 11, 2019, Serbia; Interview 12, 2019, Serbia; Interview 14, 2019, Bosnia and Herzegovina

or even just moving them to less visible and often less accessible sites, deprives people on the move of urgently needed support to cover their basic needs. Police have also confiscated a CSO's equipment²³ and blocked them from entering the location where they had offered a community space for people on the move.²⁴

Arbitrary and informal acts of policing

Several interviewees have reported that volunteers of CSOs were held at police stations for several hours. Some had baseless accusations of human smuggling presented against them, while others were kept in the dark about the reasons for their arrests. In one case a volunteer was held at a police station for two days without any charges presented against him.²⁵ Detention is often accompanied by threats, aggressive interrogations, and intimidation. High scrutiny, arrests, and searches effectively demonstrate the authorities' power and serve to intimidate those supporting people on the move. Starting with showing presence and successfully transmitting the feeling of "being watched", interrogations and detention give an impression of what might happen to those who keep up their support activities.

"A couple times I was taken to the police station with my documents checked, etc. before being released. There was, in fact, no law they could state I was breaking. On other occasions, individual police officers seemed very anxious and unstable -- perhaps important to note that I never took a confrontational or defiant tone, always de-escalating - on a couple instances, the officer had his hand on his gun; another time, an officer raised his fist at me about to punch but withdrew, and grabbed me and forced me into an unmarked car. At another spot, a police officer threatened on two occasions that he would take me to 'jail' and hold me for 48 hours without charge every future time he saw me there."²⁶

²³ Interview 7, 2019, Serbia

²⁴ Interview 11, 2019, Serbia

²⁵ Interview 11, 2019, Serbia

²⁶ Interview 11, 2019, Serbia

Verbal violence

The use of verbal violence and threats by the police and authorities is commonly used to intimidate not only people providing assistance to people on the move. The data collected for this report shows that authorities also exercised pressure on those who are deemed indirect supporters, like landlords renting out homes to international volunteers.

Reported verbal violence against supporters included yelling, insults, aggressive questioning, sexual harassment, and threats with imprisonment or expulsion from the country. Verbal assaults often link people on the move's "irregular" status in the country to the work of their supporters, accusing them of doing something illegal because the beneficiaries of their actions are "illegal". This logic denies people on the move who are forced into irregularity, essential support and assistance, contradicting basic humanitarian and democratic principles. The narrative that providing support to people on the move is equivalent to facilitating illegalised migration successfully delegitimises humanitarian support to people on the move. Therefore, it is crucial to connect the discourses around criminalisation of solidarity and criminalisation of migration and people on the move that go hand in hand.

The tendencies to further illegalise civil society engagement, bears further risks for the safety of people on the move and their supporters. Excessive verbal violence is not only perpetrated by police officials. As hostilities against the presence of people on the move among local residents grow, some direct their anger towards humanitarian supporters.

Physical violence

While physical violence by police that amounts to [torture](#), in the context of illegal refoulement, push-backs, has become the outrageous norm along the EU external border, physical violence against supporters of people on the move is yet an exception. Nevertheless, testimonies of international volunteers show that unnecessary use of force in combination with verbal threats and intimidation was used against them when they were held in a police station as well as during a raid of volunteers' accommodation. Two

reported incidents of physical violence by police officials against volunteers included immobilisation, pushing, and dragging a person by the hair.²⁷

The findings analysed in this chapter have shown that informal methods of criminalisation of support of people on the move, including scrutiny, threats and intimidation - unlike formal prosecution - are a daily reality and closely tied to the illegalisation and criminalisation of migration and people on the move. Yet, criminalisation and repression of solidarity on the Western Balkans often seems less relevant amidst blatant human rights violations, such as push-backs and police violence against people on the move. Nevertheless, it is important to defend the space for civic action and increase visibility of challenges faced by CSO and activists due to informal criminalisation and repression.

Impact of criminalisation of solidarity

This report emphasised the dangerous consequences of stigmatisation, de-legitimisation, and criminalisation of solidarity, resulting in 'shrinking spaces' for civil society. Governments across Europe have tightened restrictions for non-governmental civil society actors through policies or legal amendments and jeopardise "the citizens right to assist" those in need of humanitarian aid as a key function of democracy."²⁸²⁹

Repression affects CSO's work and individuals engagement: Interviewees were forced to stop distributions or change sites, while some projects were seized completely. This, most importantly, reduced vital support and aid for people on the move living in extremely dangerous conditions. Additionally, criminalisation has created precarious working conditions limiting capacities, increasing stress, and deterring people from engaging in support activities. Furthermore, the time and funding used to compensate the impacts of criminalisation could have been more effectively used to support people on the move. While some international volunteers are forced to cease their activities and leave the

²⁷ Interview 11, 2019, Serbia

²⁸ Szuleka 2018, p. 8

²⁹ Carrera, Guild, Aliverti et al. 2016: 63 et seqq.

country, local supporters' face risks which do not only impact their humanitarian activism but their families and private lives as well.

Strategies to criminalise acts of solidarity and (self-) silence actors breach international law and pose a sharp contrast to basic values the EU claims to hold high. According to the [UN Declaration on Human Rights Defenders](#), states have the responsibility to provide an enabling environment to ensure that everyone has the right to promote human rights and fundamental freedom as well as to safeguard the implementation of these activities. Current laws and practices are clearly at odds with the UN Declaration.

The repressions described in this report need to be seen in the context of EU migration politics as well as the respective states' relations to the Union. The Western Balkans' geographical position and the EU' s politics of externalising its borders beyond its own territory plays a crucial role. Furthermore, the political ambitions of EU accession for BiH and Serbia and in the case of Croatia, the objective to join the Schengen zone puts additional bargaining power in the hands of the EU and its member states. Externalisation and border militarisation further manifests through recent agreements that allow for the deployment of Frontex troops to non-member states to reinforce the EU external borders.³⁰

Demands and recommendations

We urge the European Union and its member states to:

SECURE human rights and their promotion, instead of criminalising human rights activists. To realise this objective, the European Commission should provide guidelines to its member states to ensure the rights of humanitarians and human rights defenders are protected. In cases of violations of the EU law and the EU Charter of Fundamental Rights, infringement procedures should be implemented.

PREVENT violations of the rights of human rights defenders, including smear campaigns, threats and attacks, and other attempts to hinder their work, in line with the [UN Human](#)

³⁰ Monroy, 2019, <https://digit.site36.net/2019/11/25/frontex-expands-operations-in-eu-neighbouring-countries/>

[Rights Defenders Declaration](#) and the 2018 [Council of Europe recommendation on strengthening the protection and promotion of Civil societies' space](#).

PROMOTE a conducive environment to humanitarian assistance and solidarity towards migrants and stop blurring lines between CSOs and human smugglers. Therefore, it is urgently needed to include the “humanitarian exemption” of the [UN Protocol against the smuggling of migrants](#) into the EU Facilitators Package³¹. The mentioned UN protocol states that the smuggling of migrants contains a for-profit element, which is in contrary to the intention of the described support groups. Unfortunately, the EU legislative package fails to reflect the UN protocol and leaves member states a wide room of manoeuvre to implement laws whose side effects can threaten acts of solidarity towards migrants³². Furthermore, the EU Facilitators' Package should make it obligatory to prohibit the criminalisation of CSOs acting with humanitarian intent to assist people on the move.

ENSURE that funding provided by the European Union to member and non-member states does not encourage or contribute to human rights violations. Further, ensure mechanisms are put in place to guarantee funding is tied to human rights obligations and upholding rights of civil society.

With this report, we express our grave concerns about the alarming tendencies to criminalise solidarity in several ways and the effects on members of civil society. Those pose serious threats to democracy, the rule of law in the Western Balkans, and result in shrinking spaces for civil society. We stand in solidarity with those affected and believe, that silence cannot be the answer to these constant unlawful intimidations.

³¹ The ‘facilitators’ package’ is a framework adopted by the EU in 2002 with the aim of harmonising member states’ legislation in the area of smuggling. The facilitation directive, defines what constitutes facilitation of unauthorized entry, transit, and stay, and the council framework decision, strengthening the penal framework to prevent this facilitation.

³² For more details about why the facilitators’ package is not in line with international laws and standards protecting the rights of people on the move see Amnesty Internationals [report](#) page 21-25.

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