RETURNS
POSITION PAPER

1. SUMMARY

As the European Union intensifies its focus on return policies and considers the establishment of so-called ‘return hubs’ in candidate countries such as Bosnia and Herzegovina and Serbia, serious concerns arise about the implications for people on the move. This position paper highlights the widespread and prolonged use of detention under harmful and degrading conditions in both countries. Vulnerable individuals, including unaccompanied and separated children, face detention in violation of international standards, with limited access to legal aid, medical care, or fair procedures.

Both Serbia and Bosnia and Herzegovina fall short in respecting core international human rights obligations. Oversight is limited, detention orders are often untransparent, and legal remedies ineffective or absent. In Serbia, detention is routinely used in the context of readmission from EU member states, often without individual assessments. In Bosnia and Herzegovina, access to monitoring bodies is limited, and people are held for extended periods—even in cases where return is not feasible. The establishment of return hubs in these contexts risks entrenching and expanding such practices, rather than improving them.

We urge the EU, its member states, and partner countries to halt the establishment of return hubs and to fully align their practices with human rights and international law. Detention should never be a default response to migration, and readmissions must respect the right to seek asylum and the principle of non-refoulement. Instead of punitive policies, investment is needed in safe and legal pathways, access to asylum procedures, and long-term protection solutions. A humane and just migration policy is only possible if rights and dignity are placed at its core.

CONTENT

2. INTRODUCTION

Although escaping the eye of the general public, every year hundreds of people on the move are detained in detention centers in Bosnia Herzegovina (BiH) and Serbia for a large variety of reasons. Many can't access legal support and have to endure a lack of (medical) services during their stay there. Also children are being detained on a regular basis.

Currently, member states of the European Union already send people on the move back to BiH and Serbia based on so-called readmission agreements. A large group of these people subsequently end up in detention centers in both countries. Several institutions such as Human Rights Watch and lawyers questioned this practice since it likely violates human rights and specifically the right to apply for asylum in a country.

With the proposal of the new Return Regulation by the European Commission on the 11th of March 2025, the political debate around so-called 'return hubs' has taken a new direction. With the introduction of an article in the legislation on the potential use of return hubs, the chances of an multiple return hub to become operationalized have increased. The Italy-Albania 'deal' has recently operationalized the center in Albania also to be used as a return hub. A potential location for the return hubs next to Albania has been discussed on a variety of political levels, including the European Council and the European Parliament. It has been raised by some, such as the vice-president of the European People's Party Jeroen Lenaers, that the so-called ideal situation for a return hub could be one of the candidate member states on the Western Balkan.

This position paper written by Intergreat, Klikaktiv, CollectiveAid and Stichting Vluchteling will dive further into the situation of people on the move in detention centers in BiH and Serbia, national return procedures and related legislation while taking into account the recent proposal of the European Commission on return procedures and the conditions both countries as candidate Member States have to meet as part of the EU accession process.

3. BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina (BiH) manages a network of centers to accommodate migrants, refugees, and asylum seekers. These facilities are categorized into detention centers and temporary reception centers, each offering varying levels of services and access.

3.1 Detention centers

In BiH there is currently one immigration detention center in Lukavica (East-Sarajevo). The center is a Closed Detention Facility and has a capacity of around 120 including facilities for men, women and families. This center is primarily used for individuals

awaiting deportation or those who have violated immigration laws. The access to services is limited: concerns have been raised regarding access to legal assistance, information on asylum procedures, and overall conditions. Testimonies from people being detained in the center include mentioning of a lack of medical personnel and long detention period without access to healthcare. In addition to an absence of interpretation services, access to medical services is generally deemed insufficient. The latest report of Human Rights Watch (May 2025) "found delays in processing returns of rejected asylum seekers, including those readmitted from the EU, as well as those held on national security and criminal grounds, leading in some cases to prolonged detention, up to a maximum of 18 months." Access to legal advice which is provided by Vasa Prava BiH is in practice restricted by detention centre staff and for people in detention with mental health needs no counselling services are available.

Human Rights Watch (2025): "Vasa Prava BiH has a mandate to provide free legal advice to people in detention, though a detained person has to request its services. After persistent efforts, a sign with Vasa Prava BiH's contact details has been displayed in the common areas of the detention center, but many detainees still do not understand that they are entitled to free legal aid, Vasa Prava BiH staff said. Vasa Prava BiH staff said that the Service for Foreigners' Affairs sometimes does not inform them even if the detained person asks to see a lawyer."

Monitoring of the facilities falls under the supervision of the Institution of Human Rights Ombudsman of BiH. The ombuds office has not visited Lukavica since 2018 despite recommendations from amongst others UNHCR and the death of a person detained in 2024. The National Prevention Mechanism has been established in 2023 but also has not visited detention sites. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a periodic visit to BiH from 2 to 13 September 2024 including a visit to Lukavica center. The results of that visit have been communicated to the Bosnian government.

Reports indicate that children, including unaccompanied minors, have been detained in BiH's immigration facilities, raising concerns about the country's adherence to international human rights standards. Despite recommendations from organizations like UNHCR to prohibit the detention of children for immigration-related reasons, the amended Law on Foreigners (specifically Article 132(3)) permits the detention of minors with their families as a last resort and for the shortest possible time. In 2022, the Lukavica Immigration Centre detained 16 children among its 714 detainees. However, in 2023 the BiH Constitutional Court ruled that the detention of an unaccompanied minor with an unrelated adult violates the principle of the best interest of the child. It is unclear how many unaccompanied minors were detained in Lukavica in 2023 (of the 683 people in total detained) and 2024.

Plans to establish a second detention unit within the Lipa Temporary Reception Centre (TRC) have been on hold since June 2023. The Lipa TRC, located 27 km from Bihać, has been described as having "detention-like conditions," raising concerns about the treatment of migrants and asylum seekers housed there.

Efforts to align detention practices with European standards are ongoing. Initiatives such as the Council of Europe's action on "Further strengthening the treatment of detained and sentenced persons in line with European standards" aim to enhance the human rights compliance of law enforcement and custodial staff in BiH.

3.2 Situation return procedures

BiH manages return procedures for migrants and asylum seekers who are denied asylum or found to be in the country irregularly by the SFA (Service for Affairs with Aliens). In 2023, 2,582 people were returned to their country of origin from BiH. In 2022 this was 1,638 (increase of 57.63%). In 2023 most people returned to Turkey, Afghanistan, Pakistan, Morocco and Nepal. According to the Bosnian government 2023 Migration report: "expulsion measures against foreign nationals are mostly imposed because the alien was accepted on the basis of the international agreement on cooperation, surrender and acceptance of persons whose stay is illegal and who do not have an approved stay in BiH; because a foreign person tried to violate or violated the regulations on crossing the state border when leaving Bosnia and Herzegovina; because they entered BiH legally; and due to staying in Bosnia and Herzegovina after the expiration of the visa or residence permit, or after the expiration of the visa-free stay." When people are returned, they are prohibited to enter BiH for a period of one to five years. The SFA is responsible for these returns when people don't return voluntarily. Voluntary return is mainly implemented through IOM under their Assistance for the Voluntary Return of Irregular Migrants program. Follow article 107 of the Law on Foreigners, people are given a time frame of 7 to 30 days to leave the country voluntarily. In 2023 most voluntary returns occurred to Turkey, Morocco, Pakistan, India, Jordan, Algeria and Bangladesh by SFA (381 people) and IOM (96 people). Additionally, in 2023 1,904 people left BiH voluntarily, without support of SFA or IOM. This was an increase of 8.68% compared to 2022 (1,752 people). In 2023 683 decisions for detention and 79 decisions for deportation were issued by the Bosnian authorities. It however remains unclear how many of these decisions were carried out. Bosnian policies on what happens to people when they cannot return people, due to factors like statelessness, are unclear. Detention is used to place people under supervision until their forced return. The time period where detention is allowed is initially limited to 90 days but can be extended to 18 months. Individuals have the right to appeal expulsion orders; however, such appeals do not suspend the execution of the expulsion.

These procedures are governed by the Law on Foreigners, which was updated in September 2023 to align more closely with EU standards and the EU acquis. This included accepting UNHCR comments which had requested specific provisions be made regarding the detention of minors that would reflect the UN Convention on the Rights of the Child.

3.2.1 Border control law

Currently, the Border Control Law is the main law influencing access to the territory of BiH, including for asylum seekers. In January 2025 the Border Control Law was adopted by the Bosnian Parliament, going into effect in June 2025. The law focuses on cross-

border moment regulations and border permit procedures and has indirect effects on people on the move. The primary effect is the conditions it puts on border crossings outside of official crossings or designated times where the crossing itself is not allowed to conflict with 'public order' and 'internal security'. People on the move who cross a border without a permit could be subjected to administrative and criminal procedures based on the new law especially if their wish to ask for asylum is not addressed clearly to the Border Police. Especially in areas between official border posts where pushbacks and unlawful returns are already reported about, this can create additional risks. Only minimal requirements of the Law on Asylum are covered in the newly adapted Border Control Law.

The BiH Border Police can more easily deny entry to individuals who fail to meet entry requirements such as valid identification documents, clear purpose of the visit, proof of funds etc. The Border Police can issue permits only in certain circumstances with approval of neighboring countries such as Croatia. Additionally, the Border Control Law allows the Bosnian Border Police to flag people on the move before they reach the Bosnian border, potentially leading to unlawful rejections.

A legal analysis of Intergreat of the Border Control Law showed the following concerns:

- In Article 6 **(Border Control)**, migration is put in the same context as terrorism and illegal activities and it is framed as threat and danger to domestic stability and internal security. Terminology clearly indicates that ensuring internal security will be placed at the expense of human rights law and it is difficult to guarantee human rights and security equally, since these objectives "have been governed by a strict unanimity rule". In accordance with UN General Assembly resolution No. 3449 (9 December 1975), the term 'illegal' should not be used to refer to migrants in an irregular situation. In the case of Saadi v. United Kingdom, the European Court for Human Rights (ECtHR) held that that "until a State has 'authorised' entry to the country, any entry is **'unauthorised'**. The Smuggling Protocol defines it as "crossing borders without complying with the necessary requirements for legal entry into the receiving State" Obligations on irregularity are imposed notably by the 1951 Convention and the Protocol with regard to refugees. Under such a dictum, all international migrants, who enter without the required documentation, whether refugees or non-refugees, could be referred to as **irregular migrants.**"
- Article 8 **(Principle of proportionality and non-discrimination)** should provide following commentary in line with Code of Conduct for Law Enforcement Officials adopted by General Assembly Resolution 34/169 of 17 December 1979:
  - ***(a)*** *The human rights in question are identified and protected by national and international law. Among the relevant international instruments are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of All Forms of*

Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Standard Minimum Rules for the Treatment of Prisoners and the Vienna Convention on Consular Relations.
***- (b)** National commentaries to this provision should indicate regional or national provisions identifying and protecting these rights.*

- Article 32 **(Verification of identity and travel documents)** does not provide for legal remedy procedures in case a foreigner/migrant is rejected entry. It is recommended to develop and put in place procedures to inform those denied entry orally and in writing of the reasons for their exclusion and of their right to challenge their exclusion before a court or other independent and effective authority.
- Article 45 **(Minors and legally incompetent persons)** should be additionally elaborated in line with OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders as follows:
  ***- (1)** Limiting interviews carried out by border authorities with children to only gather basic information about the child's identity.*
  ***- (2)** Children identified as being unaccompanied or separated should be immediately referred to child protection agencies, and only be interviewed in the presence of an appropriately trained childcare worker*
  ***- (3)** Children travelling with adults should be verified as being accompanied by or related to them, including through separate interviews with appropriately trained and qualified personnel.*
- Article 53 **(Surveillance of the state border)** should be harmonised with IHRL in the same way as Article 6.
- Article 55 **(Deterring persons from illegally crossing the state border)** represents legalisation of 'pushback practices' and impedes the right to seek asylum. This article should be deleted. Migrants arriving at international borders, regardless of how they have travelled, and of whether they are part of larger and/or mixed movements, should have access to their human rights, including individualized, prompt examinations of their circumstances, and referral to competent authorities for a full evaluation of their human rights protection needs, including access to asylum, in an age-sensitive and gender-responsive manner. Under international human rights law, everyone has the right to seek and enjoy in other countries asylum from persecution. **The Special Rapporteur on the Human Rights of Migrants underscores that effective access to territory is an essential precondition for exercising the right to seek asylum.** States' prerogative to govern migration within their jurisdiction needs to be conducted in accordance with international law, including international human rights law and standards. In the absence of an individualized assessment for each migrant concerned and other procedural safeguards, pushbacks are a violation of the prohibition of collective expulsion and heighten the risk of further human rights violations, and are incompatible with States' obligations under international human rights law, in particular the prohibition of refoulement.

3.3 Readmission agreements

Currently, people are also sent back to BiH on the basis of so-called readmission agreements between BiH and Croatia. As the Bosnian government states: 'Readmission agreements facilitate and speed up the return of nationals of the contracting parties who reside without residence permits in the other contracting party, as well as nationals of third countries or stateless persons who illegally left the territory of one contracting party directly to the territory of the other contracting party. The implementation of the agreement on readmission in the part of the acceptance of BiH nationals, i.e. identity and citizenship checks, is carried out through the Ministry of Security - Immigration Sector, and the acceptance of nationals of third countries and stateless persons, as well as the return from BiH, is implemented and carried out by the Service for Foreigners' Affairs.'

In 2023, 4,624 persons were readmitted in BiH under the Agreement between the Council of Ministers of BiH and the Government of the Republic of Croatia. From BiH to Croatia, 4 people were readmitted. Bosnia has similar readmission agreements with Serbia (readmitting 277 people from Bosnia to Serbia in 2023) and Montenegro (readmitting 17 people from Bosnia to Montenegro in 2023).

BiH is also bound by the EU-BiH Readmission Agreement, which has been in force since 2007, ensuring 'rapid and effective procedures' for the return of individuals who do not meet residence or entry conditions to the EU and also covers third country nationals and stateless persons who transited through BiH before entering EU territory. Ostensibly created as a cooperative framework to facilitate returns, the agreement plays a key role in enabling and facilitating the outsourcing and externalisation of EU border control - moving responsibility and accountability to oversight mechanisms and safeguards that lie outside the EU.

This agreement obliges BiH to readmit individuals according to prima facie evidence, without the need for conclusive evidence or documentation. This necessarily creates a permissive evidentiary threshold that drastically lowers the bar for returning individuals, capturing those who may only transiently pass through BiH without ever establishing legal ties or meaningful presence there. Such procedures also open the door to coordinated expulsion practices, in direct contradiction to international protections and the right to individualised asylum assessments. Despite formal citation of international obligations to the 1951 Refugee Convention and the European Convention on Human Rights, operational enforcement mechanisms and oversight of these protections does not occur, with the agreement even lacking a requirement that individuals be informed of their rights to challenge their transfer. In this regard, the agreement leaves significant scope for abuse.

In practice this means the system is opaque, steps between oversight mechanisms and risks enabling rights violations to occur in the grey zones that are created by that. To phrase it bluntly, the expansion of these protocols and the development of proposed return hubs risk entrenching these practices and legal voids. It would mean developing mass return infrastructure without addressing the existing human rights gaps already evident in current return practices.

3.4 UPR

The Universal Periodic Review (UPR) is a peer-review mechanism of the UN Human Rights Council that ensures the review of all UN Member States' human rights records every four to five years. This enables civil society, UN bodies and other governments to assess a country's compliance with human rights standards and issue recommendations for change. BiH underwent its fourth UPR cycle between January and February 2025.

Under the UPR 2024 several recommendations have been provided by civil society and other countries to the government of BiH concerning the situation in detention centers in BiH and especially the detention of minors. A joint submission of civil society actors based in BiH including Global Detention Projects, Collective Aid and BVMN highlighted concerns regarding the lack of adequate legal safeguards for those in detention, particularly children, the failure of the state to conduct individual vulnerability assessments, the prolonged and arbitrary and nature of detention and overall lack of judicial oversight. Furthermore, the submission noted that people were frequently reporting unsuitable conditions that fell exceptionally short of international standards. The combination of systemic obstacles to accessing legal aid and a lack of effective complaint mechanisms contributed to serious risk of widespread impunity for detention-related abuses.The UPR also details the concerns raised by 1) the UN Committee on Economic, Social and Cultural Rights in 2021 about the poor conditions of reception facilities and 2) a visit of the UN Special Rapporteur on the Human Rights of Migrants in 2020 to Lukavica. As the UPR states "Following the visit, he expressed concerns regarding the apparent lack of age assessments, the denial of access to outdoor activities for many detainees, and a lack of information provided on how to access free legal aid. He recommended that competent authorities and monitoring bodies "conduct regular visits to the immigration detention centre in order to protect migrants deprived of liberty and to prevent any human rights violations against them." The outcome of the 2024 review has not yet been finalized.

4. SERBIA

Serbia also manages a network of camps and detention centers for the accommodation and detention of people on the move, asylum seekers and refugees. The Commissariat for Refugees and Migration (CRM), an independent governmental agency, is in charge of managing 19 accommodation facilities that accommodate people on the move and asylum seekers. In March 2025, only 7 camps were operating and running (due to the low numbers of people on the move who are accommodated in government centers) while other 12 centers are on the "stand-by" and could be open and running in case of a bigger influx of people. In addition, the Ministry of Interior (MoI) operates 3 detention centers for foreigners where both people on the move and asylum seekers could be detained but on different legal grounds. Asylum seekers could be detained under the Law on Asylum and Temporary Protection as a means of limitation of movements, while undocumented people on the move are detained under the Law on Foreigners as part of

the forced removal (deportation) procedure.

Illegal residence and return procedure in Serbia are regulated by the Law on Foreigners which was adopted in 2018 and it replaced the previous Law on Foreigners from 2008. Upon the adoption of the new Law in 2018, the EU praised the new legislation and commented that "the new law aims at alignment with the Return Directive". In 2019, the EU also assessed that "the rights of migrants in proceedings before state authorities as well as their rights pending repatriation have been defined, and the return mechanisms improved" with the new Law. However, the Serbian Law on Foreigners does not align with the EU standards, especially not with the EU Directive 2008/115/EC (Return Directive) which proclaims standards and procedures for returning third-country nationals, as highlighted by local NGOs even back in 2019.

4.1 Detention centers

Serbia currently has three detention centers which are operated by the Department for Detention and Accommodation of Foreigners within the Ministry of Interior. However, domestic legislation does not insure any supervising authority which would ex-officio monitor and supervise conditions inside the detention centers or return procedure itself. Following the adoption of the Law on Foreigners, the Minister of the Ministry of Interior adopted the Rulebook on the House Rules and Rules on Staying in the Detention Centers - the bylaw which regulates the conditions and rules of staying within the detention centers. This bylaw provides some of the important guarantees, such as guarantees of appropriate accommodation for families and vulnerable groups, the principle of family unity, right to primary health care and psychological support, complaint mechanisms, meal plans, guarantees of free religion practising, right to visits, etc . However, these guarantees should be proclaimed in the Law itself and not just in the bylaw which can be changed by the simple decision of the Minister. Without the proper guarantees for these rights, the Serbian detention centers could not be considered to be inline with international standards.

Publicly available information about the conditions inside the detention centers and return practices are limited, which questions the transparency of these facilities and raises concern. The only regular monitoring visits to detention centers are done by the National Mechanism for the Prevention of Torture (NPM) which operates within the Ombudsman's Office. The Law on the Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates that the NPM shall conduct visits to institutions where persons deprived of their liberty are or may be detained, in order to deter state bodies and officials from any form of torture or any other form of ill-treatment, as well as to direct state bodies towards creating accommodation and other living conditions in institutions where persons deprived of their liberty are detained in accordance with applicable regulations and standards. Since detention centers are one of the places where people on the move and asylum seekers are being detained and deprived of their liberty, NPM visits these centers and publishes reports with its findings and recommendations.

One of the main concerns over the past years is the lack of proper medical care in detention centers in Serbia, since there is no medical staff in any of the detention centers so health care has to be provided in local hospitals with the escort of the police officers. In addition, people on the move who are detained are entitled only to urgent medical care, in accordance with Article 91.2.4. of the Law on Foreigners, which significantly limits the right to health care. NPM addresses this issue since 2016 by recommending that the Ministry of Interior assures regular presence of a medical staff in the detention centers. In its report from the visit to Plandiste detention center in 2023 NPM recommended that "at least a medical technician has to be present in all detention centers on a daily basis. These personnel should conduct first medical check-up of new detainees (especially check-ups related to contagious diseases, including TB), take requests for medical examinations, secure and issue medicines, manage medical documentation and control general hygiene conditions in the center." NPM also points out at the principle of medical confidentiality by stating that "medical confidentiality should be respected in the same way as within the local community, in particular, medical files of irregular migrants should not be available to non-medical staff but should be kept secured and locked away by the doctor or nurse. In addition, all medical check-ups should be conducted away from the hearing and seeing range of the detention staff - unless there is a specific request of the medical staff otherwise." The same recommendation was noted in the report from the visit to Dimitrovgrad detention center in 2023 as well as in the report from the visit to Padinska skela detention center which was published in January 2024.

4.2 Return procedures

Illegal residence and return procedure in Serbia are regulated by the Law on Foreigners which was adopted in 2018 and it replaced the previous Law on Foreigners from 2008. Upon the adoption of the new Law in 2018, the EU praised the new legislation and commented that "the new law aims at alignment with the Return Directive". In 2019, the EU also assessed that "the rights of migrants in proceedings before state authorities as well as their rights pending repatriation have been defined, and the return mechanisms improved" with the new Law. However, the Serbian Law on Foreigners does not align with the EU standards, especially not with the EU Directive 2008/115/EC (Return Directive) which proclaims standards and procedures for returning third-country nationals, as highlighted by local NGOs even back in 2019.

According to the Serbian Law on Foreigners, the return procedure starts by the Ministry of Interior issuing the Decision on Return which leaves a deadline of up to 30 days for a person to potentially voluntarily leave the territory of Serbia. If a third country national does not return voluntarily within the given deadline or if such deadline is not provided, the forced removal procedure can be initiated. The forced removal procedure is conducted by the police officers or officers from the specialized department in the Ministry of Interior which is in charge of managing detention facilities. The foreigner who is in the process of forced removal can be detained in one of the detention centers, but only with the purpose of preparation for the return and the execution of the forced removal. The Ministry of Interior issues the detention order which can last up to 90 days, but it can also be

prolonged for additional 90 days, which is 180 days in total. Serbia has three detention centers for foreigners which are operated by the specialized department within the Ministry of Interior - one in Padinska skela (outskirts of Belgrade), one in Plandište (near the Romanian border) and one in Dimitrovgrad (near the Bulgarian border).

However, the legislation regarding the forced removal is often misused in practice by the authorities as a way to deter people on the move from applying for asylum and staying in Serbia. Instead of registering people for asylum, the Ministry of Interior more often unjustifiably opted for the Decisions on Return, despite the fact that most people were coming from countries with high recognition rates and are in need of international protection. Therefore, in 2024, the Ministry of Interior issued 12.551 Decisions on Return (mostly to Syrians - 4.026, Afghans - 2.005 and Turks - 1.425, but also to Iraqis - 340, Palestinians - 145 and Ukrainians - 28), while only 850 people were registered for asylum and had access to rights guaranteed to asylum seekers and only 7 people were granted asylum. Also, in the same year, the Ministry of Interior issued a total of 424 Detention Orders (mostly Afghans and Syrians) although most of those people were not in the forced removal procedure as it was clear that the removal would not be possible due to different logistical and legal obstacles.

The Ministry of Interior continued with the same trend in 2025, since it issued 646 Decisions on Return (mostly to citizens of China - 78, Turkey - 61, Afghanistan and Morocco - 48 each, Syria – 37) and 78 Detention Orders (mostly citizens of Afghanistan - 25, Bangladesh and Nepal - 12 each) in the first three months of 2025. Although most Decisions on Return were issued to Chinese nationals, none of them were placed in detention in this period. On the other side, more than half of Afghan nationals who received Decision on Return were also placed in detention centers. It is also significant to note that the Ministry of Interior issued significantly more Decisions on Return and Detention Orders to Afghan nationals, then registered them for asylum procedure, despite the high recognition rate in Europe for Afghan nationals and well-known conflicts and prosecution in Afghanistan. The same applies to Syrian nationals, who mostly received Decisions on Return rather than were registered for asylum in Serbia.

In the same period (January - March 2025) the Ministry of Interior registered only 87 foreigners as asylum seekers (mostly citizens of Russia - 12, Syria - 10, Egypt - 10 and Morocco - 8). However, according to the data of the Asylum Office, none of the asylum registrations in this period took place in any of the detention centers, which questions the access to asylum in detention centers. It appears that the Ministry of Interior arbitrarily issues Decisions on Return, Detention Orders or registers foreigners as asylum seekers and refers them to camps.

Furthermore, in the period from January until the end of March 2025, a total of 24 foreign nationals were forcibly removed from the Serbian territory. Most of them were citizens of Indonesia (7), but also Afghanistan (1), Palestine (1), Sri Lanka (4), Israel (2), Egypt (1), Yermenia (1), Bangladesh (6) and Montenegro (1). The worrying fact is that the Ministry of Interior does not have any information to which counties these foreigners were deported to. In its official Memo No. 07-70/25 from 25.04.2025. the Ministry of Interior

stated that “the Border Police has data to which border crossing point the persons were escorted to, but it does not have information in which countries they were forcibly removed to, unless when the removal was conducted in the country of origin with the police escort.” In it’s Memo, the Ministry of Interior stated that the citizen of Montenegro was escorted to the border crossing “Gostun” at the land border with Montenegro, while all the other mentioned foreigners were escorted by the police only to the border crossing point at the airport “Nikola Tesla” in Belgrade and airport “Morava” near the city Kraljevo. Forcibly removing people to an unknown country is a direct violation of the non-refoulement principle and puts a person in risk of direct harm.

The bylaw of the Law on Foreigners - the Rulebook on Conditions and Procedure of Forced Removal - states that the forced removal will be conducted if “there is no serious harm for psychological, physical or medical condition of a foreigner, if his/hers identity is established and if it is possible to arrange his/hers transportation to the country of origin.” It also states that the foreigner should be in the possession of a valid travel document and it does not proclaim the necessity to obtain any consent or assurances from the country of origin. The consent of the country of origin is required only if the foreigner does not have a valid travel document, and in those cases the embassy or consulate of the country of origin should issue it. And if this is not possible, the Ministry of Interior can issue the travel document on its own, if they obtain official consent that the country of origin will accept the foreigner. However, it is unclear how the Ministry of Interior was able to obtain necessary documents and constants from the countries of origin of people who were deported in 2025, since most of them do not have diplomatic representatives in Serbia.

Another worrying aspect of the Serbian legislation is the fact that Article 7. of the Rulebook on Condition and Procedure of Forced Removal states that the foreigner is forcibly removed only to the Serbian border crossing point at the land or at the airport for the air traffic. The foreigner is accompanied on the flight to the country of origin only if it is required due to the security reasons. This is not in line with the EU standards and legislations, as this practise makes it impossible to follow up on the deportation and whether the foreigner was safely readmitted by the authorities of the county of origin.

Serbian law is not in line with EU legislations and international standards when it comes to return procedure and detention in other aspects as well, some of which include and are elaborated on above and below:

1. ineffective legal remedies in the forced removal procedure and against detention orders,
2. foreigners are not entitled to legal aid neither against the detention order nor in the forced removal procedure,
3. linguistic obstacles, since the foreigners receive all decisions only in Serbian language and an interpreter is not provided during the procedure,
4. inadequate detention conditions.

4.2.1 Ineffective legal remedies in return procedure and against detention orders

When it comes to the legal remedies in the return procedure and against detention orders, people on the move have to submit two separate legal remedies: 1) an appeal to the Ministry of Interior against Decision on Return and 2) a lawsuit to the Administrative court against the Detention Order. Most detainees are issued the Decision on Return and the Detention Order by the Ministry of Interior simultaneously and have to challenge both decisions in separate procedures.

The Article 13 of the Return Directive proclaims the right to an effective legal remedy to appeal against or seek review of the decisions related to return, before a competent judicial or administrative authority. It also states that the second instance authority shall have the power to review decisions related to return, including the possibility of temporarily suspending their enforcement, unless a temporary suspension is already applicable under national legislation. However, **according to the Law on Foreigners, the Decision on return is issued by the Ministry of Interior and the appeal is also submitted to the Ministry of Interior, which leaves no impartiality and independence between the first and second instance authorities. Article 47 of the EU Charter of Fundamental Rights even states that a legal remedy can be considered effective only if it is submitted before the independent and impartial tribunal. The same position is stated by the European Parliamentary Research Service in their briefing "Detention of Migrants" by stating that migrants should "benefit from an effective legal remedy enabling them to have the lawfulness of their deprivation of liberty decided on speedily by a judicial body." It also states that "this judicial review should entail an oral hearing with legal assistance, provided free of charge for persons without sufficient means, and interpretation - if required." However, neither the Ministry of Interior nor Administrative Court hold oral hearing when they are acting upon the appeals in the return procedure.**

The Article 80. Paragraph 3. of the Law on Foreigners also specifies that the appeal against the Decision on Return does not have a suspending effect and therefore it can not be considered as an effective legal remedy. The Law on Foreigners proclaims that the appeal could have a suspending effect only if there is a risk of disrespect of the non-refoulement principle or if there are strong humanitarian reasons why the person can not be returned to the country of origin. However, Serbian authorities never assess the risk of the non-refoulement in practise before they issue the Decision on Return, which is visible from the texts of these returns. Also, the fact that most of the Decisions on Return in 2024 were issued to the citizens of Syria (4.026 decisions) and Afghanistan (2.005 decisions) show that Serbian Ministry of Interior does not respect the non-refoulement principle, since these are one of the countries with highest asylum recognition rates in Europe and their citizens should be registered for asylum rather than issued expulsion orders.
Serbian legislation does not provide an effective legal remedy when it comes to the detention orders either. Foreigners can submit a lawsuit to the Administrative Court against the detention orders and they have to do it within 8 days, which is a much

shorter time frame than the one proclaimed by the Law on Administrative Disputes which is 30 days and which normally applies for filing lawsuits before this court. These lawsuits also have no suspending effect while the Charter of Fundamental Rights provides a right to effective remedy which - 'Where there are substantial grounds for fearing that the deportation of a person will result in a real risk of treatment contrary to Article 2 or Article 3 of the ECHR' - should include a suspensive effect. According to the Law on Foreigners, the Administrative court has to decide on the lawsuit within 15 days, but there is no sanction for the court if this deadline is not respected, which makes this proclamation quite ineffective and irrelevant in practice.

4.2.2 Denial of right to free legal aid in forced removal procedure and against detention orders

Also, **people who are in the return procedure, regardless if they are in detention or not, do not have a right to free legal aid in accordance with the Law on Foreigners and the Law on Free Legal Assistance, which is not in line with EU standards.** Article 13 of the EU Return Directive clearly states that the third-country national concerned shall have the possibility to obtain legal advice, representation. Member States shall ensure that the necessary legal assistance and/or representation is granted on request free of charge in accordance with relevant national legislation or rules regarding legal aid. However, Serbian Law on Free Legal Assistance does not recognise people who are held in administrative detention as the beneficiaries of free legal aid, and therefore they have to pay for legal services, regardless of their material status. This is not in line with the Charter of Human Rights which requires member states to provide legal aid to those who lack sufficient resources.

This means that foreigners who receive Decision on Return and subsequently the Detention Order have to hire and pay a lawyer on their own and at very high prices. In accordance with the Lawyer's Tariff the cost of the appeal against the Decision on Return is 90.000 RSD (770 EUR), while the cost for the lawsuit against the Detention Order is 108.000 RSD (925 EUR). In addition, foreigners would have to pay additional costs for the legal advice and consultations, which means that the total cost could easily go beyond 2.000 EUR, which is not available to the majority of foreigners. In 2024, 436 people (mostly from Afghanistan - 132, Syria - 108 and Turkey - 40) were detained in detention centers and only 11 of them submitted lawsuits against the Detention Order. Out of those 11 lawsuits, only one was adopted, which gives indications that there is no accessible nor effective legal remedy.

4.2.3 Linguistic obstacles

Article 13 of the Return Directive also stipulates that the necessary linguistic assistance should be provided in the return procedure, yet all formal decisions and proceedings in the return procedure before the Serbian authorities are conducted and issued in Serbian language and cirilic letters, without assuring necessary interpretation. People are often not aware which type of procedure is being initiated against them and without an interpreter for their mother tongue, they are not able

to give their statement during the proceedings. This also questions their access to asylum procedure in Serbia, especially having in mind that most people who have received return and detention orders are coming from countries with high recognition rates.

4.3 Readmission agreements

In 2007 EU and Serbia signed the Agreement between the European Community and the Republic of Serbia on the readmission of persons residing without authorisation (Readmission Agreement) which gives legal ground for EU Member States to legally return third country nationals back to Serbian territory. Article 3 of the Readmission Agreement proclaims the obligation of Serbia to readmit all third-country nationals or stateless persons who do not fulfil the legal conditions for entry to, or presence on the territory of the Requesting Member State if such persons illegally and directly entered the territory of the Member States after having stayed on, or transited through, the territory of Serbia.

In 2024, Serbia accepted 370 third country nationals from neighboring EU countries, mostly from Croatia (345 people) and Romania (20 people). Also, under the same Readmission Agreement, Serbia returned 121 third country nationals (mostly Syrians and Afghans) back to Bulgaria. Serbia also has bilateral readmission agreements with BiH and North Macedonia which allow for these countries to return third country nationals as well.

However, there were multiple reports about the misuse of readmission agreements, including the returns of third country nationals who were in need of international protection or even Dublin returns, but whose asylum claims were ignored. Despite the fact that Non-affection clause from the Article 17 of the Readmission Agreement clearly states that third country nationals could not be readmitted under this Agreement if they are in need of international protection, cases of such returns will still documented.

4.4 UPR

Serbia underwent its fourth UPR cycle from May 2023.Under the UPR 2023, the Nations High Commissioner for Human Rights provided several recommendations on the use of detention in Serbia generally. As of May 2025, no official response has been made publicly available by the Serbian state. Neither the website of the Ministry of Human and Minority Rights and Social Dialogue, nor the Government or National Assembly pages contain a published response or position regarding the recommendations issued. While the recommendations do not cover immigration detention, we do urge the UPR to include this in their focus for the fifth UPR cycle. The lack of official response of the Serbian government on the UPR's recommendations and the exclusion of immigration detention limits the ability for civil society to measure commitment to follow up or accountability.

5. RETURN REGULATION

On the 15th of March the European Commission proposed the new Return Regulation. Legally, the EC has introduced the use of return hubs in article 17 of the Regulation, see below. Other issues concerning the Regulation are for this paper not taken into account. The Regulation will enter trilogues as soon as a position by the European Parliament has been established.

Article 17
Return to a third country with which there is an agreement or arrangement

1. Return within the meaning of Article 4, first paragraph, point (3)(g) of illegally staying third-country nationals requires an agreement or arrangement to be concluded with a third country. Such an agreement or arrangement may only be concluded with a third country where international human rights standards and principles in accordance with international law, including the principle of non-refoulement, are respected.

2. An agreement or arrangement pursuant to paragraph 1 shall set out the following:

a. the procedures applicable to the transfer of illegally staying third-country nationals from the territory of the Member States to the third country referred to in paragraph 1;
b. the conditions for the stay of the third-country national in the third country referred to in paragraph 1, including the respective obligations and responsibilities of the Member State and of that third country;
c. where applicable, the modalities of onward return to the country of origin or to another country where the third-country national voluntarily decides to return, and the consequences in the case where this is not possible;
d. the obligations of the third country referred to in the second sentence of paragraph 1;

e. an independent body or mechanism to monitor the effective application of the agreement or arrangement;
f. the consequences to be drawn in case of violations of the agreement or arrangement or significant change adversely impacting the situation of the third country.

3. Prior to concluding an agreement or arrangement pursuant to paragraph 1, Member States shall inform the Commission and the other Member States.

4. Unaccompanied minors and families with minors shall not be returned to a third country referred to in paragraph 1.

6. EU ACCESSION

The European Union has over the years provided extensive support to for both Bosnia and Herzegovina and Serbia in the field of migration on a both financial and technical level. As both countries are currently candidate member states of the EU, there could be an incentive from a geopolitical perspective for both countries to facilitate the EU in their wish for a return hub. Both countries follow the EU accession path, see here for more information.

In March 2024 the European Council conditionally opened the accession discussion with BiH. While not all conditions were met, the Council decided to formalize this step in the accession process due to several reasons such as 1) some clear commitments made by BiH on legislation against money laundering, 2) the geopolitical need to revive the enlargement process as a move against Russian influence and 3) the general need to deliver political progress from the EU towards the Western Balkans and vice-versa. Also the position and level of influence of separatist actions by the leader of Republika Srpska (RS), Milorad Dodik, has potentially influenced this decision. As Ursula von der Leyen stated during the presentation of the latest enlargement process in October 2024: "The tense geopolitical context makes it more compelling than ever that we complete the reunification of our continent, under the same values of democracy and the rule of law. We have already taken great strides over the last years towards integrating new Member States. And enlargement will remain a top priority of the new Commission". As the EC states in the enlargement package in October 2024: "The enlargement process continues to be merit-based and depends on the objective progress made by each of the partners. This requires determination to implement irreversible reforms in all areas of EU law, with special emphasis on the fundamentals of the enlargement process. Democracy, the rule of law and fundamental values will continue to be the cornerstones of the EU's enlargement policy. EU membership remains a strategic choice."

A country where Bosnia Herzegovina and Serbia will likely derive inspiration from is Albania. EU Accession is a top priority of the Albanian government and seems to have successfully maneuvered the EU accession pathway especially in the field of migration by accepting a so-called return hub for Italy on their territory. This has drawn attention from various other member states, such as Germany and Austria. The usage of non-EU countries in the Western Balkans as 'return hubs', circumventing human rights obligations by EU member states can be used as a tactic by EU candidate countries to leverage the difficult accession process. If Albania appears successful in doing this - as they are perceived frontrunner in the accession process now - this could merit human rights violations in other Western Balkan countries as well. For the EU, this damages the EU acquis as whole - as its position as a 'community of values' is being used only when suitable.
In the national reports published by the EC accompanying the adoption of the EU enlargement package, the following recommendations were given by the EU to BiH and Serbia on the issue of detention:

BiH:

- Detention facilities, prison regimes and reintegration programmes need to be improved, and an effective probation system should be introduced.
- Bosnia and Herzegovina needs to ensure the essential procedural right to immediate access to a lawyer in police detention.

Serbia:

- An accurate recording of police interviews with audio and video equipment and the protection of the rights of individuals in remand detention and of the right of access to a lawyer without undue delay are still needed. Serbia has still not revised the 2019 Criminal Code amendments which introduced life imprisonment without the possibility of conditional release for a number of crimes, contrary to the European Convention on Human Rights and the related case law.

Underlying this, the European Union has a number of principes, standards and obligations to follow when it comes to the detention of people in the move that member states are obliged to follow:

1. Basic principles related to the treatment of migrants in detention were laid down e.g. by the Council of Europe's European Committee on Legal Cooperation (CDCJ) in its Codifying instrument of European rules on the administrative detention of migrants, May 2017 or in the UNHCR Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, 2012.
2. In the EU context, Directive 2013/33/EU (Recast Reception Conditions Directive) and Directive 2008/115/EC (Return Directive) include standards (guarantees) and rules (conditions) regarding the detention of applicants for international protection , ensuring that their fundamental rights are fully respected.
3. Guarantees for detained applicants for international protection are laid down in Art. 9 of Directive 2013/33/EU resp. Art. 15 of Directive 2008/115/EC, such as e.g. detention for the shortest period possible and only as long as the grounds for detention are applicable, detention must be ordered in writing by judicial or administrative authorities, speedy judicial review of the lawfulness of detention, information on reasons for detention and the procedures laid down in national law for challenging the detention order, access to free legal assistance and representation.
4. Art.10 of Directive 2013/33/EU resp. Art. 16 of Directive 2008/115/EC refer to conditions of detention. Detention of migrants shall take place as a rule in specialised detention facilities . Where an EU Member State cannot provide accommodation in a specialised detention facility and is obliged to resort to prison accommodation, migrants shall be kept separated from ordinary prisoners. EU Member States shall ensure that family members, legal advisers or counselors and persons representing relevant international and non-governmental organisations such the United Nations High Commissioner for Refugees (UNHCR) have the possibility to communicate with and visit applicants. Applicants in detention shall be systematically provided with information which explains the rules applied in the facility and sets out their rights and obligations in a language which they understand.
5. According to Art. 11 of Directive 2013/33/EU resp. Art.17 of Directive 2008/115/

EC particular attention shall be paid to the situation of vulnerable persons. Unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time.

Human rights treaties enshrine the right to liberty and the related prohibition of arbitrary detention and are therefore relevant when discussing the situation of people on the move in detention centers and subsequent return procedures[1]. As Amnesty International states[2]: International law sets out that "freedom must be the default position and detention the exception." Additionally, migration-related detention should, according to numerous UN bodies[3], must always be for the shortest time possible. It must not be prolonged or indefinite. A form of routine or automatic detention is a breach of international law due it by definition being arbitrary. According to Amnesty International[4]: Any restriction on the right to liberty must be exceptional and based on a case-by-case, individualized assessment of the personal situation of the migrants and asylum-seekers concerned. The individualized assessment must take into consideration the effect of detention on irregular migrants' or asylum-seekers' physical and mental health[5], as well as factors such as their personal history, age, health condition, family situation and any specific needs. Blanket or automatic detention policies are arbitrary because they are not based on an individualized assessment of the necessity and proportionality of the detention measure[6].

(1) International Covenant on Civil and Political Rights, Art. 9(1); UN Human Rights Committee, General Comment 35 on Article 9: Liberty and security of person, CCPR/C/GC/35, 31 October 2014; UN General Assembly, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution 43/173, 9 December 1988, Principle 2; and Declaration on the Human Rights of Individuals who are not nationals of the country in which they live, Resolution 40/144, 13 December 1985, Art. 5(1)(a); European Convention on Human Rights, Art. 5(1); Refugee Convention, Art.31; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Art. 16(1); African (Banjul) Charter on Human and Peoples' Rights, Art. 6; American Convention on Human Rights, Art. 7(1); American Declaration on the Rights and Duties of Man, Art. 1; Arab Charter on Human Rights, Art. 14; UNHCR Detention Guidelines, Introduction.

(2) UN Human Rights Council, Report of the Special Rapporteur on the human rights of migrants on a 2035 agenda for facilitating human mobility, A/HRC/35/25, 28 April 2017, paras 58 and 62.

(3) UN General Assembly, Report of the Special Rapporteur on the human rights of migrants, François Crépeau, A/HRC/20/24, 2 April 2012, para. 22; UN Commission on Human Rights, Report of the Working Group on Arbitrary Detention, E/CN.4/2000/4, 28 December 1999, Annex II, Principle 7; UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, Concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, CMW/C/MEX/CO/2, 3 May 2011, para. 36; and Concluding observations of the Committee on the second periodic report of Bosnia and Herzegovina, CMW/C/BIH/CO/2, 26 September 2012, para. 26(a); UN Human Rights Committee, Concluding observations on the sixth periodic report of Canada, CCPR/C/CAN/CO/6, 13 August 2015, para. 12; UN Committee against Torture, Concluding observations of the Committee against Torture: Australia, CAT/C/AUS/CO/3, 22 May 2008, para.11; UNHCR Detention Guidelines, Guideline 6.

(4) See, for example, UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, Concluding observations of the Committee on the second periodic report of Bosnia and Herzegovina, CMW/C/BIH/CO/2, 26 September 2012, para. 26(c); Concluding observations of the Committee on the initial periodic report of Rwanda, CMW/C/RWA/CO/1, 10 October 2012, para. 24(a); and UNHCR Detention Guidelines, para.2, and Guideline 4.

(5) UN Human Rights Committee, General Comment 35 on Article 9: Liberty and security of person, CCPR/C/GC/35, 31 October 2014, para. 18.

(6) UNHCR Detention Guidelines, para. 3; UN Committee on the Elimination of Racial Discrimination, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Bahamas, CERD/C/64/CO/1, 28 April 2004, para. 17

7. RECOMMENDATIONS AND CONCLUSIONS

Based upon the findings gathered in this position paper, Klikaktiv, CollectiveAid, Intergreat and Stichting Vluchteling collectively issue the following recommendations to improve the situation for people on the move in detention in BiH and Serbia - particularly concerning immigration detention and subsequent return procedures, the implementation of the proposed EU Return Regulation and the implementation of the EU Accession paths of BiH and Serbia.

BiH & Serbia:

We firmly urge the governments of BiH and Serbia to comply fully with international human rights standards governing immigration detention - whether that is in regard to individuals apprehended within the country or those readmitted under bilateral or EU arrangements.

We further urge both governments to implement the recommendations of the European Commission as articulated in the October 2024 Enlargement Package (see page 17 and 18), including those concerning the improvement of detention conditions and procedural safeguards.

Overall, we urge both governments to:

a) Outright reject the establishment of return hubs on their territory;

b) Adhere to Amnesty International recommendations on the use of detention for migrants, noting specifically the following;

- 'Migration-related detention can only be used in specific and the most exceptional of circumstances, as a measure of last resort.'
- 'It must not be arbitrary, and must comply with the principles of legality, necessity, proportionality and non-discrimination.'
- 'Detention orders must be based on a detailed assessment of individual circumstances, considering people's histories and special needs.'
- 'Routine or automatic migration related detention is, by definition, arbitrary, and therefore unlawful.'
- 'Migration detention should never be imposed on children.'
- 'Asylum seekers are granted additional guarantees in the context of their detention, in line with the principle of non-penalisation under Article 31 of the 1951 Geneva Convention.'
- 'One of the limited grounds on which the detention of asylum seekers is allowed under EU and international law, is "to determine or verify [their] identity or nationality." (Note: we see however how this is misused by authorities in practice. Therefore we call for monitoring of the use of this ground).

- ‘Amnesty International considers that migration detention aimed at verifying people’s identity can only be considered necessary and proportionate if used for a few hours, immediately after people’s arrival in the country, in order to: record their entry, determine their identity (or record the impossibility to verify their identity), and (where applicable) register a claim for asylum.” ’

Specifically, when receiving and deporting third-country nationals through for instance readmission agreements, we urge both the governments of BiH and Serbia to:

a) Respect the right to asylum and reject the return of people who are in need for international protection in general and specifically within the context of bilateral and EU readmission agreements. .

b) Uphold international and EU legal norms by rejecting cooperation with third country authorities and regimes with documents track records of human rights violations.

c) Ensure robust safeguards for people who are returned such as:

- Parliamentary oversight and ex-ante fundamental rights impact assessments;
- Legally binding agreements that guarantee respect for human rights, non refoulement, the prohibition of collective expulsion and arbitrary detention, and dignified conditions;
- Return decisions based upon individual assessments, with transfers halted in the event that risks or vulnerabilities are identified or where individuals lack connections to their destination country;
- Independent monitoring videos, accessible complaints procedures and meaningful legal remedy,
- Respect the right to asylum and don’t accept the return of people who are in need of international protection.

European Commission and Member States

We urge the European Commission to reject the use of return hubs in itself and remove article 17 from the Regulation proposal. Related to the EU accession path, we urge the EC to follow up actively on its recommendations as articulated in the adoption of the enlargement package in October 2024 concerning the situation in detention centers.

We urge Member States to ban return cooperation with non-recognized third country entities with documented human rights violations, to uphold international law and EU values. From a financial perspective, we urge Member States to redirect funding for potential return hubs to ensure access to effective asylum procedures, safe pathways and the integration of people on the move in their national systems.

ANNEX 1

Specific recommendations for BiH and Serbia.

For the government of Serbia, we urge:

- The Ministry of Justice to initiate changes of the Law of Free Legal Assistance that would grant the right to free legal aid to foreigners who have received Detention Order and are placed in administrative detention;
- The Ministry of Interior to change the current provisions of the Law on Foreigners and secure an effective legal remedy against Decisions on Return, where an independent and impartial authority would act as a second instance and decide on the appeals;
- The Ministry of Interior to change current provisions of the Law on Foreigners and also secure an effective legal remedy against Detention Orders, primarily by prolonging the time limit for submitting the lawsuit to the Administrative court from 8 days to at least 15 days, so that detainees would have sufficient time to contact and hire a lawyer;
- The Ministry of Interior to hire an interpreters and ensure that people on the move can follow each step of the return procedure in the language they fluently understand and speak. People on the move should be informed about their rights and legal status in the return procedure in their own language, and should receive the Return Decision and Detention Order in the language they understand.
- The Ministry of Interior should respect the non-refoulement principle during the return procedure and actually assess whether the person can be returned to the country of origin without the risk of persecution or harm for his/hers safety and life;
- The Ministry of Interior, in cooperation with the Ministry of Health, should secure presence of medical staff in detention centers, as well as psychological support and mental health assessments for detainees;
- The Ministry of Interior should improve material conditions inside the detention centers and adopt all of the recommendations given by the NPM in its previous reports.

For the government of Bosnia and Herzegovina, we urge:

- We urge the Bosnian ombuds office to draw inspiration from the NPM work of the Serbian ombuds office,
- We urge the Bosnian government to follow up on the UPR 2020 recommendations by the UK (120.202), Afghanistan (120.201), Uruguay (120.203) and Honduras (120.205) which ask for a.o. humane and lawful conditions of detention.

We urge the government of BiH specifically to follow the recommendations by the Global Detention Project which asks for:

- The end of immigration detention for children,
- The end of all forms of arbitrary or de facto immigration detention in border zones or at temporary reception centres
- “Clarification of the nature and extent of deprivation of liberty in the country’s reception centres. There are conflicting reports about the nature of some of the newer “camps” that have been established to accommodate migrants and asylum seekers, in

particular the IOM-assisted Lipa camp. If people are in fact deprived of their liberty at these sites, particular rights and obligations apply.

- Clarification regarding the Lipa emergency reception centre in terms of custodial authorities, security, and administration. Reports indicate that the IOM has hired guards. Are they intended to force people to stay in the camp? If so, who has legal custody of these de facto detainees? Who is accountable for their treatment?
- Details about measures taken to protect immigration detainees from contracting Covid-19 and any other measures the country may have taken in response to the pandemic, including whether it released detainees due to concerns about outbreaks and/or the impossibility of deporting people.
- Details regarding whether efforts have been made to investigate allegations of mistreatment of migrants during forced pushbacks and who is accountable for abuses that may have occurred.
- Information about conditions of detention within the Lukavica detention centre.
- Information regarding the status of the Vucjak facility and indicate the authorities responsible for detention and management of this facility.
- Statistics on the practice and scope of immigration detention in the country, including disaggregated statistics (based on age, gender, and reasons for detention) on the numbers of people placed in immigration detention annually.
- Statistics on the number of children detained.

We urge the government of BiH specifically to follow the recommendations as drafted by CollectiveAid and BVMN for the 2024 UPR which call for:

- Cease the detention of children for immigration-related reasons.
- Amend the Law on Foreigners to prohibit the detention of children and families.
- Cease de facto and arbitrary detention operations in border regions and in all temporary reception centres.
- Ensure that vulnerable groups are never placed in immigration detention.
- Improve conditions and operations in the Lukavica “Immigration Centre” and ensure that all detention sites meet international standards.
- Urgently ensure that detainees have access to appropriate interpretation services, and are provided with information detailing the reasons for, and the length of, their detention in a language they can understand.
- Ensure that detainees have guaranteed access to the outside world–including by providing clear information on how to access free legal aid and asylum procedures.
- Ensure that material conditions in detention guarantee access to security, health, food, and other rights.

Follow the Amnesty recommendations published in 2021:

- Address systemic and institutional gaps in the asylum system, including the lack of staff, resources and capacity that undermine Ministry of Security’s ability to address asylum claims in a reasonable timeframe; (Asylum Sector instead of Ministry of Security)
- Ensure that all asylum-seekers have access to fair and effective asylum procedures, including an assessment of their claims for international protection in an individualized procedure;

- Amend relevant laws to remove requirements that impede access to asylum procedures for many asylum-seekers, including the 14-day timeframe to lodge asylum application after the initial expression of intent and a proof of residence as a requirement to apply;
- Identify facilities for separate accommodation of children (in particular in Una-Sana Canton) and, in the interim, take concrete steps to improve conditions in the existing facilities, including effective access control and strong safeguarding policies;
- Improve the system of child protection concerning unaccompanied and separated minors, including increasing numbers of social workers and legal guardians and improving their capacity;
- Ensure that all reception centers have appropriate spaces for self-isolation, access to testing kits and medical assistance. Migrants, asylum-seekers and refugees should be fully included in any mass vaccination plans once the vaccines become available without discrimination based on their legal status;