

**REPORT ON ILLEGAL
EXPULSIONS FROM
CROATIA IN
THE CONTEXT OF THE
COVID-19 PANDEMIC**



**PUSHBACK
REPORT**

7th Pushback Report of the Centre for Peace
Studies and the Welcome Initiative



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Introduction

The seventh report on violent and illegal expulsions brings an overview of 2020 and 2021 in the context of the COVID-19 pandemic. The past two years have once again proven that in times of great crisis, the most vulnerable members of society become increasingly exposed to systemic violence which leads to almost completely denied access to the asylum system. The Croatian political leadership and the Ministry of the Interior misused the fear of the unknown surrounding the COVID-19 pandemic and the prevailing media attention on the topic to disguise torture, inhuman and degrading treatment taking place at Croatian borders and well within the Croatian territory. Nevertheless, never has there been more evidence of systemic violent and illegal pushbacks than in the past two years. Violent and illegal pushbacks have not only been recorded on thousands of pages of reports, hundreds of medical records describing the severity of the injuries inflicted, but also on video footage – evidence most difficult to ignore. In November 2021, in the case of *M.H. and Others v. Croatia* the European Court of Human Rights (ECtHR) ruled that Croatian police officers illegally pushed back the family of Madina Hussiny and that they are responsible for the death of little Madina who tragically lost her life when she was only six years old.

This report represents our effort to uncompromisingly speak about and document violence, torture, inhuman and degrading treatment executed by Croatian police officers while illegally pushing back refugees and other migrants to Bosnia and Herzegovina (hereinafter: BiH) and Serbia in the last two years.

Overview of 2020 and 2021 in the context of migration

¹ European Commission, Migration and Asylum Package: New Pact on Migration and Asylum documents adopted on 23 September 2020, published on 23 September 2020, available at: https://ec.europa.eu/info/publications/migration-and-asylum-package-new-pact-migration-and-asylum-documents-adopted-23-september-2020_en

Although 2020 was envisioned as a transformative year for the EU migration policy, the proposed EU Pact on Migration and Asylum¹ has not moved beyond the current unsustainable and inhumane policies heavily relying on externalisation, expulsions and securitisation. Instead of developing policies of solidarity towards the most vulnerable members of society, refugees and other migrants, the primary focus has been set on solidarity among the Member States themselves. The possibility for a significant change that could curb down the practice of inhuman and degrading treatment and violence at EU's borders shattered under the proposal for an independent border monitoring mechanism whose establishment, ironically, would be in the hands of institutions that the mechanism is supposed to supervise, thus completely undermining its independence. A year later, in 2021, the proposed EU Pact on Migration and Asylum was still not in force, while the right to access the asylum system has become one of the most endangered human rights in the EU. In the light of an even bigger derogation of human rights of refugees and other migrants, greater pressure was put on EU Member States at the external border of the EU, one of which is Croatia.

In particular, 2020 and 2021 were marked by an escalation of violence and inhuman treatment of refugees and other migrants at Croatian borders and within its territory. In these past two years Croatian police officers tortured, humiliated and illegally pushed back hundreds of refugees from the Croatian territory. The most brutal cases of torture and inhuman and degrading treatment included marking refugees with an orange spray over their scalps, rubbing mayonnaise, ketchup and sugar in their wounds, tying them to trees, inflicting bodily injuries, causing material damage, suffering and mental trauma, hitting their heads against the door of a police vehicle and shooting at them. This kind of police brutality reached its peak by the end of 2020, with Croatian police officers not only torturing but also humiliating and illegally pushing back refugees, including one case of rape. Lack of response from the competent institutions and lack of independent investigations allowed for these

- 2 Border Violence Monitoring Network, Launch Event: The Black Book of Pushbacks, published on 18 December 2020, available at: <https://www.borderviolence.eu/launch-event-the-black-book-of-pushbacks/>
- 3 Net.hr, *Zastrašujuća devijacija 'Koridora'*, published on 9 December 2019, available at: <https://net.hr/danas/hrvatska/zastrasujuca-devijacija-akcije-koridor-polici-ja-sve-dogovara-na-whatsappu-a-poseban-zadatak-u-hvatanju-migranata-imaju-tak-sisti-ed34cc9e-b1c4-11eb-b01c-0242ac140013>
- 4 Border Violence Monitoring Network, *Reconstructing a Violent Pushback of Asylum Seekers from Croatia to BiH | BVMN Border Investigations*, published on 18 November 2020, available at: <https://www.youtube.com/watch?v=rEDbuDbqzU>
- 5 Spiegel, "Wir sind für sie wie Tiere", published on 23 June 2021, available at: <https://www.spiegel.de/ausland/kroatien-videos-dokumentieren-systematische-pushbacks-a-4463a93d-0467-4960-814a-6d959e1df193>
- 6 Lupiga, *NJEMAČKI MEDIJI IMAJU SNIMKE: Hrvatska policija protjeruje bebe, trudnice i djecu s invaliditetom*, published on 23 June 2021, available at: <https://lupiga.com/vijesti/njemacki-mediji-imaju-snimke-hrvatska-polici-ja-protjeruje-bebe-trudnice-i-djecu-s-invaliditetom>
- 7 Rtl.hr, *Mještani u Karlovačkoj županiji skrivali Iranke s dvoje djece koja tvrdi da ih je policija 22 puta izbacila iz zemlje. Potraga donosi njihovu priču!*, published on 29 June 2021, available at: <https://www.rtl.hr/vijesti-hr/potruga/4060842/mjestani-u-karlovackoj-zupaniji-skrivali-iranku-s-dvoje-djece-koja-tvrdi-da-ih-je-policija-22-puta-izbacila-iz-zemlje-potruga-donosi-njihovu-pricu/>
- 8 Rtl.hr, *VIDEO Potraga u posjedu ekskluzivnih snimki: Iživljavaju se na migrantima, mlade ih palicama i tjeraju iz Hrvatske*, published on 6 October 2021, available at: <https://www.rtl.hr/vijesti-hr/potruga/4116864/video-potruga-u-posjedu-ekskluzivnih-snimki-izivljavaju-se-na-migrantima-mlade-ih-palicama-i-tjeraju-iz-hrvatske/>

practices to continue in 2021. In 2021, even families became victims of brutality, and police misconduct included a case of rape of a mother and a pushback of a four-month pregnant woman and her four children.

The thing that almost all testimonies of tortured, humiliated and illegally pushed back refugees have in common is the description of persons mistreating them. Most of the victims of human rights violations mentioned before and a great majority of those whose testimonies were published in the *Black Book on Pushbacks*², the biggest collection of testimonies of violent pushbacks across the external borders of the EU, refer to police officers wearing unmarked black uniforms and balaclavas, who, according to their description, probably belong to either a special police unit or the so-called operation 'Corridor'³ of the Ministry of the Interior. Although the Ministry of the Interior dismissed all the testimonies, they and the public were presented with clear proof, impossible to look away from. In 2020, the Border Violence Monitoring Network published a video analysis showing the act of illegal and violent pushback conducted by Croatian police officers in classic uniforms but also police officers wearing black uniforms and balaclavas.⁴ The Minister of the Interior once again dismissed the allegations, arguing they are not real evidence. However, this analysis was just the tip of the iceberg. In 2021, journalists played a vital role in protecting the rights of refugees and other migrants. The evidence they gathered saved human lives at the borders and made important strides towards holding accountable those ordering and carrying out illegal pushbacks.

A team of journalists from ARD Wien/Südosteuropa, Lighthouse Reports, SRF Schweizer Radio und Fernsehen, DER SPIEGEL and Novosti recorded⁵ a total of six illegal collective pushbacks involving approximately 65 people, of which around 20 children. The reports also included interviews⁶ with families that were pushed back – fathers, pregnant women, children, elderly and disabled persons, who all confirm they have been denied both access to asylum and medical assistance. Journalists of the RTL show 'Potraga' filmed⁷ an Iranian family requesting asylum. Their story is one of many – they tried to enter Croatia and request asylum 22 times, and they were expelled from the country each and every time.

Only a few months after the first footage was published, the aforementioned investigative team of journalists (consisting of ARD, Lighthouse Report, Novosti, RTL Hrvatska, Spiegel, SRF) published another video⁸ confirming the involvement of spe-

⁹ Večernji list, *Trojica policajaca koji su snimljeni kako tuku migrante dobili uvjetnu kaznu*, published on 8 December 2021, available at: <https://www.vecernji.hr/vijesti/disciplinski-sud-izrekao-kaznu-policajcima-koji-su-snimljeni-kako-tuku-migrante-1545803>

¹⁰ Jutarnji List, *Policajci koji su tukli migrante neće dobiti otkaz? 'Jedan je zaprijetio svojom snimkom'*, published on 22 November 2021, available at: <https://www.jutarnji.hr/vijesti/hrvatska/policajci-koji-su-tukli-migrante-nee-dobiti-otkaz-jedan-je-zaprijetio-svojom-snimkom-15123102>

cial police units in carrying out violent and illegal pushbacks, thus proving the credibility of the victims who had accused police officers wearing special uniforms of torture and inhuman treatment. After the footage was published, the Minister of the Interior, Davor Božinović, publicly admitted that it features members of special police units carrying out illegal and violent pushbacks. However, even though the footage presents clear evidence of illegal and violent pushbacks, only three police officers faced sanctions in the form of a suspended sentence.⁹ At the time of writing this report all three police officers have returned to duty. Interestingly, Croatian media reported that one of them is in possession of incriminating footage and that he threatened to release it in case he gets dismissed from service. What is particularly worrying is the fact that the three police officers were disciplined solely for not wearing their uniforms properly (i.e. they inverted them).¹⁰ The Minister and the General Police Director have yet to assume responsibility.

Despite thousands of allegations and numerous criminal complaints for which an *ex officio* investigation should be conducted – no indictments have been brought so far and, accordingly, no perpetrators have been identified, prosecuted or sanctioned. With the exception of few disciplinary measures for a handful of police officers, no accountability has been assumed neither by those giving the orders nor by those carrying them out. At the same time, the courts in Austria, Slovenia and Italy did find sufficient grounds to show that chain pushbacks are being carried out throughout Croatia.

Today, there are thousands of victims of inhuman and degrading treatment and violent pushbacks from Croatia who will never get justice. Some of them had the courage to share their testimonies and proceed with criminal complaints. Yet, a great majority of them will not get justice, contrary to their belief, solely because Croatia is not conducting any independent and efficient investigations. However, 2021 was an important year for one family, the family of little Madina Hussiny, a six-year-old girl who lost her life as a result of an illegal pushback. In the case of three constitutional complaints filed by the Hussiny family, the Constitutional Court ruled that Croatia violated human rights of the members of the family and exposed them to the risk of torture and abuse. The Constitutional Court concluded that the authorities rejected the application for international protection made by the Hussiny family without assessing the reasons for seeking international protection, relying entirely on the institution of a safe third country, in this case Serbia. In the judgement, the Constitutional Court concluded that 'it was not established with sufficient certainty that the Republic of

¹¹ CMS, *Važnost presude Ustavnog suda za zaštitu prava izbjeglica u Hrvatskoj*, published on 30 April 2021, available at: <https://www.cms.hr/hr/azil-i-integracijske-politike/vaznost-presude-ustavnog-suda-za-zastitu-prava-izbjeglica-u-hrvatskoj>

¹² European Court of Human Rights, *M.H. and Others vs. Croatia*, available at: <https://hudoc.echr.coe.int/fre?i=001-213213>

¹³ Council of Europe, *Council of Europe anti-torture Committee publishes report on its 2020 ad hoc visit to Croatia*, published on 3 December 2021, available at: <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-report-on-its-2020-ad-hoc-visit-to-croatia>

Serbia is a safe European third country’.¹¹ The Constitutional Court considered that it is not enough to rely on the normative framework and the number of approved asylum applications when identifying a country as ‘safe’, but that ‘relevant reports from refugee rights and non-governmental organisations on the actual treatment of persons must be taken into account’.

The judgement of the Constitutional Court was followed by an even more important one. Four years after Madina’s death, Madina and her family finally got justice! The European Court of Human Rights delivered a judgement upholding the violation of the right to life, the violation of the freedom from torture and inhuman treatment, the prohibition of collective expulsions, the right to security and liberty, and the right to individual petition.¹² The highest court for human rights thus recognised little Madina Hussiny and her family as victims of illegal pushbacks that resulted in loss of life of a six-year-old girl on 21 November 2017.

Another expected confirmation of brutality of violent pushbacks happening at the borders and within the Croatian territory came in the form of a report of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe (hereinafter: CPT) covering their *ad hoc* visit to Croatia conducted in the summer of 2020.¹³ Although the Croatian government opposed the publishing of the report, State Secretary Terezija Gras violated the Rules of Procedure and by doing so gave CPT the legitimacy to publish it in December 2021. Indeed, the content of the CPT report clearly shows that the Croatian police tortures and inhumanely treats thousands of refugees and other migrants, so it is not surprising that the government tried to prevent it being published.

Detailed testimonies, photos, medical documents, thousands of pages of different reports, clear video footage, judgements all state the obvious: refugees and other migrants are severely beaten and tortured, and later illegally pushed back from Croatia. For six years now, the political leadership of the Republic of Croatia has assumed no responsibility for these severe human rights violations continuously happening at its borders. The EU on the other hand has turned a blind eye, once again, giving Croatia the green light to enter Schengen, despite all the evidence indicating clear violations of the Schengen Border Code. In this light, both Croatia and the EU are responsible for the mentioned human rights violations.

Violence in pandemic times

As an organisation actively protecting the rights of refugees and other migrants, since the summer of 2020 Centre for Peace Studies (CPS) has been receiving calls on a daily basis from refugees located on the Croatian territory asking us to communicate their intention to seek asylum to the police and/or call the ambulance because they need immediate medical assistance (these cases often involve exhausted and dehydrated children, pregnant women in severe health risks, elderly people, etc.). From November 2020, CPS started systematically documenting the communication.

In these situations, CPS officially informs the responsible institutions, namely the police and the Ministry of the Interior, of a person's intent to seek asylum in Croatia accompanied with a request for information on the manner in which the legal procedure for seeking asylum is being implemented in the specific case. The NGO Croatian Law Centre, the Ombudsperson's Office and the Ombudswoman for Children (if children are involved) are always included in the correspondence. If needed, CPS also calls the ambulance. Regardless of these measures, in the majority of cases persons report being pushed back by the police without access to medical assistance, while the official response from the police station in question in most cases says that they never found the persons CPS asked about.

The practice of denying access to medical assistance was documented through testimonies collected by the Border Violence Monitoring Network (BVMN). One case in particular included a group of Afghan men who approached Croatian police officers because they were worried for their friend who needed medical assistance. He lost consciousness, fell and could not talk or walk.

The officer attended to the group of 16 and came to see the condition of the man who the others had lain out on the floor. The initial officer, wearing black uniform, was described as 'behaving nice' and allegedly

¹⁴ Border Violence Monitoring Network, *THE OFFICERS DID NOTHING FOR THE MAN WHO WAS LYING ON THE FLOOR*, published on 6 April 2020, available at: <https://www.border-violence.eu/violence-reports/april-6-2020-2020-close-to-basara-hr/>

assured the transit group that the police would help them get him to a hospital. The officer called back-up and approximately seven police officers arrived at the location on the road. The officers were dressed in black uniforms matching the first policeman they met. They came in two marked police vehicles, one described as a smaller car, and one in a larger car. These officers were reported to be rude and not as accommodating as the first. Immediately they began to act roughly with the 15 people who were standing. They searched the groups bags and ordered them to give over their personal belongings such as mobile phones (the respondent said only one person was able to retain their phone by hiding it).

Despite the respondent's requests for medical attention, the officers did nothing for the man who was lying on the floor. Describing the authority's behavior, the respondent shared how 'they even didn't touch' the man, and made no efforts to check on his physical state. Soon after all the bags had been searched and possessions removed, a further officer brought a vehicle into which the group were loaded. The sixteen people were loaded into the back of the police van together. As the officers refused to touch or assist the man on the floor, the group members themselves had to pick him up and convey him to the van as he was still unable to walk and not verbally responsive. The van drove the group a short distance to the border with BiH and unloaded them from the back (again forcing the group members to carry the injured person).¹⁴

In November 2020, the Ministry of the Interior started outsourcing the provision of official responses to the non-governmental organisation Croatian Law Centre, despite the fact that it is the responsibility of public authorities to provide information falling under their jurisdiction. In the first four months of 2021, only half (26 out of 47) of our requests for information were answered, of which a vast majority (24) was answered by the Croatian Law Centre, while the ministry itself provided only two responses.

From November 2020 until the end of September 2021, Centre for Peace Studies recorded a total of 292 inquiries by 262 groups, concerning 1038 persons. Children were present in at least 127 groups, and 75 groups required medical assistance.

We sent a total of 75 inquiries to the police, they responded only in 12 cases, while the Croatian Law Centre responded on their behalf in 30 cases. During that period at least 43 groups reported that they were illegally expelled (pushed back), and only 10 groups were granted access to the asylum system.

In addition to a continuous lack of information and reported pushbacks regardless of the fact that all the relevant authorities were informed of the persons' intent to seek asylum, several other worrying trends were noticed in the period from November 2020 to the end of September 2021.

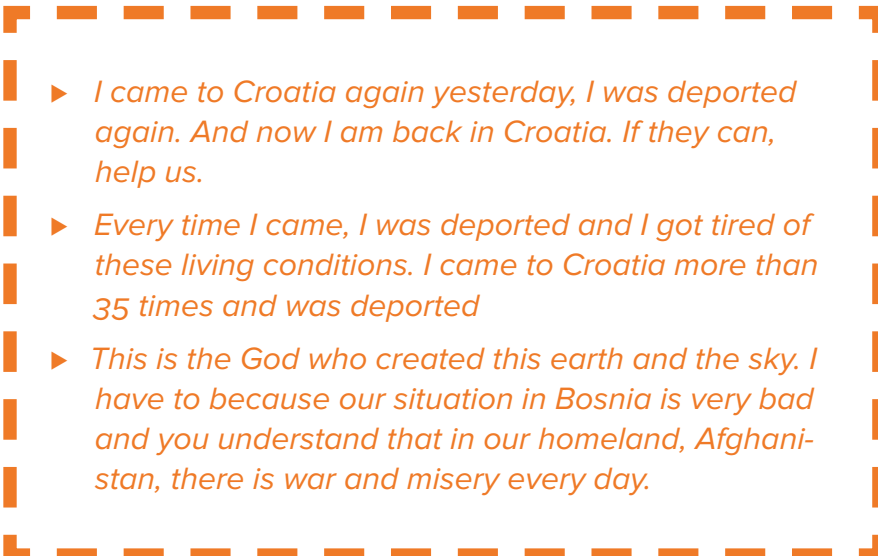
Firstly, CPS noticed excessive waiting time for the arrival of police and medical assistance. In several instances, it took two days for the police to arrive to the site, even though the emergency number was dialled several times.

One example of this practice includes two families from Afghanistan who spent two days waiting for the police and medical assistance. After the police finally arrived, without the ambulance, the communication stopped. Here are some of their messages from the second day of our communication:

- ▶ *We slept in the forest tonight, it was waterless, not food, we all got sick, we had a cold*
- ▶ *I do not know for two days that we need ambulances and police, it does not come, this is our chance, we are sick, we are sick, we have a baby who needs to be breastfed*
- ▶ *Hello, good morning, we are still waiting for the police and ambulance*
- ▶ *Neither the police nor the ambulance have arrived yet*
- ▶ *Hello, the police and the ambulance did not come. You know the nearest police station that we have.*
- ▶ *I should go there alone, because my daughter and my wife are very bad.*
- ▶ *Why is this police and ambulance not coming? My wife is dying.*
- ▶ *You are here in the dark waiting for the police and ambulance.*
- ▶ *The police came*

Secondly, repeated pushbacks of the same person/groups of persons were monitored over this period, with some people reporting to have been pushed back from Croatia over 20 times. In February 2021, CPS noticed an increase in the number of persons contacting us multiple times because they were already pushed back and then returned to Croatia once again to seek asylum. One group contacted us five times in February, two groups four times each, two groups three times each, while seven groups contacted us two times each. Moreover, several groups informed CPS that they had been pushed back numerous times in the past. Only in February, from direct inquiries, we noted that five groups were pushed back two times, while two groups were pushed back three times.

One example of such a practice includes an Afghan family who were subject to multiple pushbacks and contacted us multiple times from October to February. Here are some of their messages dated end of February 2021:

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- ▶ *I came to Croatia again yesterday, I was deported again. And now I am back in Croatia. If they can, help us.*
 - ▶ *Every time I came, I was deported and I got tired of these living conditions. I came to Croatia more than 35 times and was deported*
 - ▶ *This is the God who created this earth and the sky. I have to because our situation in Bosnia is very bad and you understand that in our homeland, Afghanistan, there is war and misery every day.*

The trend of systemic pushbacks continued throughout the monitoring period, as only in March 2021 12 groups that contacted CPS confirmed that they had been pushed back from Croatia, some more than once. For example, one group has been expelled 16 times already, and one family even more than 30 times. Due to systemic pushbacks they experienced, numerous groups said they were afraid of the Croatian police. They also expressed their mistrust in the system where the police are the only institution where they can express their intent to seek asylum, while that same institution systematically ignores their requests and violates their human rights.

¹⁵ Border Violence Monitoring Network, *40 TIMES I TRIED TO CROSS BORDER. I LIVE IN BOSNIA FOR 2 YEARS*, published on 5 May 2021, available at: <https://www.borderviolence.eu/violence-reports/may-5-2021-0100-croatia-close-from-road-1/>

¹⁶ Border Violence Monitoring Network, *I TELL HIM 'SIR, I DIE THE THIRTY TIME. THIS IS MY SIX TIME, I DON'T HAVE ANY MORE ENERGY'*, published on 26 October 2021, available at: <https://www.borderviolence.eu/violence-reports/october-29-2021-2000-42-km-from-bihac-near-kalati-village/>

BVMN collected the testimony of an Afghan man who has been pushed back from Croatia 40 times. '40 times I tried to cross border. I live in Bosnia for 2 years.'¹⁵

Another testimony they collected clearly shows how Croatian police officers ignore requests for asylum.

*I tell him 'please sir, I am really... I have a really bad situation, this is my sixth time you catch me, so please this time give me one chance, give me stay in Zagreb'. He is laughing for me, he told me 'this is not my job, my job is only to stop you'. I tell him 'sir, you don't help us, you only forward my message to the senior, another person'... Again I told him 'please, kindly forward my message to another person, to your senior'. He was laughing for me. He told me 'you come again, again and again, thirty times'. I tell him 'sir, I die the thirty time. This is my six time, I don't have any more energy.'*¹⁶

Finally, serious obstacles in accessing the emergency medical service have been noticed in these situations. As explained in the official communication with the Croatian Institute for Emergency Medicine, this is due to the internal protocol defined by the Ministry of the Interior, specifically the Civil Protection Directorate as the responsible entity for the emergency telephone line. As we have been informed on several occasions, this protocol foresees that in situations where migrants need emergency medical service, it is necessary to first call the police, and the police then inform the ambulance if needed. In cases of medical emergencies for the migrant population, the ambulance will come only after the police arrive and only if the policemen deem it necessary. As mentioned before, the police sometimes take up to two days to arrive, and in situations where persons are unconscious or bleeding, this time-wasting protocol might have fatal consequences.

Since summer 2021, CPS has noticed a decrease in inquiries. However, at the same time, we were unofficially informed by other stakeholders that a significant number of people tried to seek asylum in Croatia by the end of the year.

CPS overview of 2020:

Month	Received inquiries	People	Inquiries sent to the police	Responses received from the police	Responses received from the CLC*	Illegally expelled	Access to asylum
November	46 inquiries	266 persons	22 inquiries	10 cases	3 cases	6 groups	unknown
December	8 inquiries (5 groups)	26 persons	2 inquiries	none	2 cases	unknown	1 group
Total	54 inquiries (51 groups)	292 persons	24 inquiries	10 cases	5 cases	6 groups	unknown

CPS overview of 2021:

Month	Received inquiries	People	Inquiries sent to the police	Responses received from the police	Responses received from the CLC*	Illegally expelled people	Access to asylum
January	27 inquiries	98 persons (14 groups)	6 inquiries	1 case	1 case	unknown	1 group
February	43 inquiries (35 groups)	160 persons	26 inquiries	none	15 cases	15 groups**	2 groups
March	38 inquiries (29 groups)	130 persons (12 groups)	6 inquiries	none	5 cases	12 groups**	unknown
April	33 inquiries (29 groups)	90 persons	9 inquiries	1 case	3 cases	unknown	4 groups
May	34 inquiries (31 groups)	108 persons	1 inquiry	none	1 case	5 groups	1 group
June	29 inquiries (27 groups)	72 persons	1 inquiry	none	none	2 groups	unknown
July	12 inquiries (11 groups)	34 persons	1 inquiry	none	none	3 groups	unknown
August	14 inquiries (14 groups)	27 persons	none	none	none	unknown	2 groups
September	8 inquiries (8 groups)	27 persons	1 inquiries	none	none	unknown	unknown
Total	238 inquiries (211 groups)	746 persons	51 inquiries	2 cases	25 cases	At least 37 groups	10 groups

* Croatian Law Centre / ** Some multiple times

¹⁷ Source: Border Violence Monitoring Network, exported testimonies for 2020 and 2021 from the database, <https://www.borderviolence.eu/export-testimonies/>

¹⁸ Border Violence Monitoring Network, *GETTING BEATEN UP IS NOT EVEN THE WORST PART, IT'S THE PSYCHOLOGICAL TORTURE THAT DESTROYS YOU*, published on 24 February 2021, available at: <https://www.borderviolence.eu/violence-reports/february-24-2021-2100-near-highway-r401/>

¹⁹ Border Violence Monitoring Network, *YOU CAN SAY THAT YOU ARE A VERY STRONG PERSON BUT IN THIS SITUATION, YOU WILL CRASH.*, published on 19 September 2021, available at: <https://www.borderviolence.eu/violence-reports/september-19-2021-1000-near-a1-road-and-close-to-the-italian-border-slovenia/>

In the past two years, the **Border Violence Monitoring Network** recorded 339 cases of pushbacks from Croatia to BiH and Serbia, including in total 4,737 persons.

In 2020, BVMN recorded 128 cases including 1,866 persons: 1,673 persons pushed back to BiH and 193 to Serbia. Of that number, 322 persons suffered chain pushbacks to BiH from Croatia, and 44 persons suffered chain pushbacks to Serbia from Croatia.

In 2021, the Border Violence Monitoring Network recorded 2,689 people pushed back from Croatia to BiH, and 182 people pushed back from Croatia to Serbia. Of that number, 291 people suffered chain pushbacks to BiH from Croatia, and 31 people suffered chain pushbacks to Serbia from Croatia.¹⁷

The majority of collected testimonies show the gravity of violence Croatian police officers use when executing pushbacks. This violence leaves not only physical but also severe mental trauma. As one of the victims stated in his testimony collected by the BVMN:

*Getting beaten up is not even the worst part, it's the psychological torture that destroys you, when they keep you inside a dark van, and all you can hear is people getting beaten up, whining and crying. It only means you are next, that's a torture.*¹⁸

This continuous and systemic process of stripping refugees and other migrants of their dignity has long-lasting consequences, not only on refugees and other migrants, but on the society as a whole. As one of the victims of pushback, torture and inhuman and degrading treatment stated for BVMN:

*They treat us like animals, not humans. You can say that you are a very strong person but in this situation, you will crash. Because we are immigrants, that's why they treat us like animals, maybe animals are treated better than us.*¹⁹

²⁰ The PRAB initiative gathers partner organisations operating across a range of countries: Italy (Associazione per gli Studi Giuridici sull'Immigrazione (ASGI), Diaconia Valdese (DV) and Danish Refugee Council (DRC) Italia); Hungary (Hungarian Helsinki Committee); Bosnia and Herzegovina (DRC BiH); Serbia (Humanitarian Center for Integration and Tolerance (HCIT)); North Macedonia (Macedonian Young Lawyers Association (MYLA)); Greece (Greek Council for Refugees (GCR) and DRC Greece); and Brussels (DRC Brussels).

²¹ PRAB partners collected testimonies of cases of pushbacks from France, Austria, Italy, Slovenia, Hungary, Romania, Greece, Albania, Serbia, BiH, Montenegro, Kosovo and North Macedonia.

²² Danish Refugee Council, *Protecting Rights at Borders: Human dignity lost at the EU's Borders*, available at: https://drc.ngo/media/rzplexyz/prab-iii-report-july-to-november-2021_final.pdf

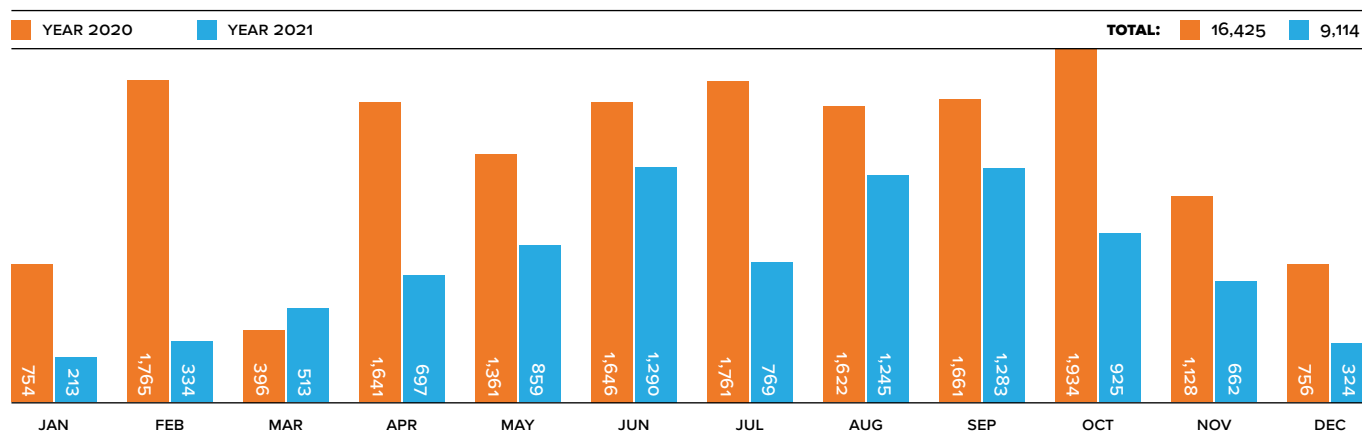
²³ Information provided by the Danish Refugee Council.

²⁴ Danish Refugee Council, *Protecting Rights at Borders: Human dignity lost at the EU's Borders*, available at: https://drc.ngo/media/rzplexyz/prab-iii-report-july-to-november-2021_final.pdf

Having in mind the lack of interest from state institutions to respond to the violence continuously happening at Croatian borders and within its territory and taking into account the long duration of these violent practices, one thing is clear - the Republic of Croatia completely normalised violence towards people in search of security.

The gravity of this normalisation of violence is best portrayed by the data collected by the Protecting Rights at Borders (PRAB) initiative. From January to the end of November 2021, the **Protecting Rights at Borders (PRAB)**²⁰ initiative recorded 11,901 persons pushed back in the region²¹. Of that number, 8,812 persons were pushed back from Croatia to BiH²². Throughout 2021, the highest rate of pushbacks was recorded at the border between Croatia and BiH.

In 2020, the **Danish Refugee Council** recorded 16,425 cases of illegally expelled people (some people were pushed back multiple times). The number of pushbacks was particularly high in February and then from April to November. In 2021, the Danish Refugee Council recorded 9,114 cases of illegally expelled people (some people were pushed back multiple times). A significant rise in the number of pushbacks was recorded during the warmer part of the year (April-October). Victims of pushbacks were mainly persons from Afghanistan, Pakistan, Syria, Morocco, Iran and Iraq.²³



From August to November 2021, a total of 1,696 persons from Afghanistan reported being pushed back from Croatia to BiH, including 61 persons that experienced chain pushbacks from Slovenia, through Croatia to BiH. The number included 65 unaccompanied and separated children (UASC), as well as 154 families with a total of 368 family members, including 163 children. The majority reported denied access to asylum, arbitrary arrest or detention, theft, extortion and destruction of property, and abusive and degrading treatment.²⁴

Overview of legal cases

The ongoing, unlawful and violent practice of pushbacks from the Croatian territory carried out by Croatian authorities has been well documented for six years. Reports from different institutions, including Croatian Ombudsperson, national and international NGOs, thousands of victims' testimonies collected by activists, photographs, videos, medical documentation, and even testimonies of several police officers together point to the same direction: systemic, severe violations of human rights taking place at EU's borders. Refugees are collectively and violently pushed back outside the borders of the EU, after being stripped of their clothes, shoes, money, phones – and, most importantly – their dignity and their rights. These collective expulsions are carried out without any due process and access to legal remedies, using methods of torture and arbitrary detention which are endangering the very rule of law.

In the past two years, since the outbreak of the COVID-19 pandemic, violent pushbacks of refugees that entail inhuman and degrading treatment causing severe injuries have increased. With the goal of supporting the victims of these severe human rights violations but also stopping this unlawful practice, in the past two years Centre for Peace Studies submitted five criminal complaints to the State Attorney's Office against unknown perpetrators from the police force who tortured, humiliated and pushed back refugees from the territory of Croatia to Bosnia and Herzegovina. These criminal complaints refer to the following cases:

■ Case of pushbacks including physical marking of refugees with orange spray all over their heads

On 5 June 2020, Centre for Peace Studies filed a criminal complaint to the State Attorney's Office in Zagreb against unknown perpetrators from the police force based on a reasonable suspicion of degrading treatment and torture of 33 people and their violent, illegal expulsion from the territory of the Republic of Croatia to Bosnia and Herzegovina. During the pushbacks they were tortured, their clothes and possessions

²⁵ Council of Europe, The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Croatian Government on the visit to Croatia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 14 August 2020* (further in text – CPT report), para 27, published on 3 December 2021, available at: <https://rm.coe.int/1680a4c199>

²⁶ CPT report, para 28

were taken away and they suffered degrading treatment – the policemen marked their heads, making a cross with a permanent orange spray. One group of victims reported that the police ordered them to take off their clothes and get on their knees before they took out the spray to mark their heads. One victim reported severe violence: ‘They were beating me and then they opened the van’s door and put my head kicking it with the door’, and said that after they were forced to cross the river (border), the policemen fired seven shots at them, but luckily missed.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) conducted a fact-finding visit to BiH during their visit to Croatia from 10 to 14 August 2020. This mission included CPT’s delegation interviewing some of the victims included in two criminal complaints filed by CPT. Regarding the case described above, the CPT’s delegation ‘observed photo documentation taken at the time of the migrant’s admission to Miral TRC on 7 May 2020 **which confirmed that he had arrived at the camp with a spray-painted orange cross on his head**’²⁵. CPT concluded that ‘these two cases cannot be lightly dismissed as fabrications, as the Croatian authorities have sought to do’²⁶.

Although a year and a half has passed, we still have not received any information on the course of the investigation from the State Attorney’s Office.

■ Case of torture, humiliation and pushback of 16 refugees

On 23 July 2020, Centre for Peace Studies filed another criminal complaint to the State Attorney’s Office in Zagreb against unknown perpetrators due to reasonable suspicion that at the end of May they tortured, humiliated and pushed back 16 refugees from the territory of the Republic of Croatia to Bosnia and Herzegovina. Eight armed men wearing unmarked black uniforms and balaclavas, most probably members of a special police unit or an operation codenamed Corridor, tortured, inhumanely treated and pushed back 16 refugees. The armed men tied the refugees to trees, fired shots from pistols close to their ears and feet, beat them using any object at hand, and took away their belongings under death threats. The victims reported being mainly beaten with batons and gunstocks, after which perpetrators used electro shockers against the victims’ necks, heads and loins. In the end, the men humiliated the refugees by rubbing mayonnaise, ketchup and sugar into the injuries they had previously inflicted. After these severe acts of

torture, the armed men in black called the police who arrived at the spot, saw the tortured victims and did not offer aid, but instead, pushed them back to Bosnia and Herzegovina. During its mission, the CPT's delegation interviewed two victims in the case described in this paragraph. In line with the description in the criminal complaint, the findings of the CPT's independent forensic doctors 'suggest that the injuries sustained and still visible 45 days after the incident are compatible with the alleged ill-treatment'²⁷:

*In respect of the first interviewee the medical certificate issued by the Cantonal Hospital of Bihac on 27 May stated the following: 'contusion on the head with laceration wound on the head in region parieto-occipitalis, multi-fragment fracture of the right ulna, fracture in the proximal (upper) end of the right tibia, fracture of VI left ribs with bleeding in the chest cavity (haemothorax-accumulation of blood within the pleural cavity), laceration wound on the left elbow.' During the examination by one of the CPT delegation's forensic doctors on 12 August 2020, SA still displayed: a vertical scar of 1 cm on the right part of the forehead from a healed wound measuring 1 cm; a pink-purple scar from a healed wound of 1 cm at the root of the nose; a 1 cm scar from a healed wound on the left, on the hairy part of the head, above the ear; a fibrous scar measuring 2 cm under the left eye. **All injuries observed were compatible with the allegations of ill-treatment.***²⁸

*In respect of the second interviewee who alleged to have received several blows with the butt of a semi-automatic weapon and a gun to his front and neck: a scar from a healed wound measuring 2/2 cm on the hairy part of the head in the left frontal-parietal area and a 2 cm scar in the occipital area were observed by one of the CPT delegation's forensic doctors and **assessed as compatible with the alleged ill-treatment.***²⁹

Therefore, CPT concluded the following: 'Given the concordant witness statements, the documented injuries, and other observations, these two cases cannot be lightly dismissed as fabrications, as the Croatian authorities have sought to do.'³⁰

Nevertheless, on 1 June 2021, the State Attorney's Office dismissed the criminal complaint stating that steps have been taken to conduct a first-instance investigation, that no violations have been found and that the police did not record any actions towards the victims. They stated that they questioned the victims in cooperation with the police of Bosnia and Herzegovina and that the victims gave different details from the ones in their first statement enclosed to the criminal complaint. They characterised these differences as inconsistencies, forgetting that this can be caused by the severe trauma the victims have experienced.

■ Case of torture, rape and pushback after the victims were released from custody

On 10 December 2020, Centre for Peace Studies filed a criminal complaint in an extremely brutal case of pushback. The victims were stopped in the village of Slunjčica by police officers from Slunj police station. According to the victims' testimonies, they were detained in the police station for two days, where they were not given food and were only allowed to go to the toilet twice a day. Afterwards, they were taken to Karlovac County Court as witnesses against the fifth member of the group. Their names, date and place where they were stopped are visible from the court decision – and confirm their statements. This also proves that they were under the direct control of Croatian public bodies when the Croatian police transported them to an unknown location without any procedure and handed them over to armed men in black uniforms, with balaclavas over their faces. The armed men in black uniforms brutally tortured the victims. 'They forced us to take off all our clothes except our underwear' – the victims reported 'and then we needed to lay on the ground, face down. One man was standing on my hands so I could not move them.' The perpetrators also blocked their hands and severely beat them one by one using their fists, branches and something described as a 'whip'. The victims also reported that one of them was raped with a branch used by an armed man to forcefully penetrate his anus, while the other perpetrators were laughing. After this horrific torture, the victims were taken into a van and transported near the border with Bosnia and Herzegovina - beaten and almost completely naked. The perpetrators pushed them back saying: 'Don't come back to Croatia ever again!'. The investigation is ongoing.

■ Case of a violent pushback from the railway

On 10 December 2020, Centre for Peace Studies filed another criminal complaint for a pushback accompanied by severe torture. The victims suffered similar violations, as they were tortured and beaten at the Blata railway station, after which they were kept in detention in the garage of Ogulin police station, where they were not given food or any explanation as to why they were there. The victims reported mistreatment in the police station: 'Two times we knocked on the door and asked for water and food. Every time one police officer came and told us 'you eat in the forest, you don't need food.' Then, together with another group of refugees and other migrants they were taken to an unknown location and handed over to men wearing black uniforms who beat them and forced them to undress and lie on top of each other. 'The first four of us were on the ground and we lay next to each other so naked and beaten and the other four were ordered to lie on us like when trees are stacked' – one of the victims described. They threatened and ridiculed them while pushing them back to Bosnia and Herzegovina.

The criminal complaint included, among others, a testimony collected by the Danish Refugee Council (DRC) in the refugee camp, and CPS submitted additional medical documents.

This complaint was dismissed by the State Attorney's Office on 10 May 2021. The dismissal decision revealed some very problematic aspects. Among other reasons, the State Attorney stated that DRC was interviewed by BiH authorities and confirmed that victims involved in the case did not undergo medical examination/no medical records were available. This is patently false, as DRC was never interviewed by BiH authorities concerning the case and the medical records were submitted to the State Attorney's Office. Further, the dismissal decision also states that the police have already conducted investigations regarding the 'lawsuit' considering the same case. Neither Centre for Peace Studies, who started the criminal procedure nor the victims have been informed of any type of lawsuit. Moreover, lawsuits do not fall under the jurisdiction of the police, but of the court.

■ Pushback of a pregnant woman and her family

In August 2021, Centre for Peace Studies filed a criminal complaint related to a pushback of an Afghan family of six, including a woman in her fourth month of pregnancy, her four children and her husband. After receiving medical treatment at the

hospital, police officers took the victims to the police station on the same day, where the family articulated their intent to seek international protection several times – but this was ignored by police officers. Instead of registering the request to seek asylum, the victims report that one of the policemen ordered them to write down that they want to go to Germany. ‘I told him we want to stay in Croatia and ask for asylum. The big policeman punched me in the nose and told me to write down what he said’ – the victim reports. After violating the victims' right to international protection and grossly abusing their powers, the police officers put the family of six into a van and took them near the border with Bosnia and Herzegovina ordering them to leave Croatian territory.

Along with the abovementioned criminal complaints, Centre for Peace Studies brought two different cases to the European Court of Human Rights regarding unlawful expulsions of refugees:

■ **M.H. and Others v. Croatia (applications no. 15670/18 and 43115/18)**

In November 2021, the European Court of Human Rights passed a judgment in the case of M.H. and Others v. Croatia (applications nos. 15670/18 and 43115/18) in which it found a violation of Article 2 (right to life) of the European Convention on Human Rights regarding the investigation into the death of an Afghan family's daughter, a violation of Article 3 (prohibition on inhuman and degrading treatment) in respect of the applicant children unanimously, a violation of Article 5 para. 1 (right to security and liberty) in respect of all the applicants, a violation of Article 4 of Protocol No. 4 to the Convention (prohibition of collective expulsions of aliens) in respect of the applicant mother and her five children, and a violation of Article 34 (right of individual petition). The Hussiny family was represented by lawyer Sanja Bezbradica Jelavić, in cooperation and with the support of Centre for Peace Studies, which also provided a third-party intervention in the case.

The Hussiny family sought justice in Croatia but did not receive it from Croatian institutions. The criminal complaint was dismissed because the State Attorney's Office gave full confidence to the findings of the Ministry of the Interior instead of examining the evidence and respecting the testimonies of the victims and witnesses. At the same time, the recordings of thermal imaging cameras, as key evidence available to the police, have mysteriously disappeared. This extremely important judgement states, among other things, that representatives

of organisations Centre for Peace Studies and Are You Syrious? were intimidated and a volunteer of Are Your Syrious? was even persecuted for supporting the family of little Madina, precisely to prevent this case to reach Strasbourg.

■ Y.K. against Croatia (application no. 38776/21)

Centre for Peace Studies, together with lawyer Sanja Bezbradica Jelavić, brought the case of Y.K. v. Croatia before the European Court of Human Rights. The victim in this case is a Kurdish man, who was actively involved in politics and activism in Turkey, which is why his security in that country has been endangered. Upon his arrival to Croatia, he was placed in a detention centre where he expressed his intention to seek asylum several times, but it was never respected, even when it was expressed through his lawyer via a power of attorney. Moreover, he was denied access to legal aid and contact with his lawyer, and the officials misinformed the lawyer of his decisions. Although he has repeatedly expressed his intention to seek international protection, Y.K. was forcibly removed from Croatia without a prior assessment of his case and without access to an effective remedy.

No effective legal remedies

Despite thousands of allegations and numerous criminal complaints for which an ex officio investigation should be conducted – no indictments have been brought so far and, accordingly, no perpetrators have been identified, prosecuted or sanctioned. **These cases once again confirm systematic violence and illegal pushbacks carried out by Croatian police, which have become increasingly brutal over time.** In addition to other CPS's attempts to ensure justice for the victims of violent pushbacks from Croatia, the latest judgement in the case M.H. v. Croatia represents an important step in providing protection against the systematic human rights abuses and support to victims through free legal aid and strategic litigation.

However, **it is time for the institutions of the Republic of Croatia to stop dismissing and ignoring evidence of police brutality at Croatian borders.** The evidence must be examined efficiently and independently, and the findings of investigations must be publicly available. Instead of systematically carrying out illegal expulsions, the competent institutions need to systematically investigate these crimes and practices, prevent their execution by establishing independent border con-

trols, and ensure that Croatia is a country that truly protects the lives and safety of all people on its territory.

It is important to highlight that in case of pushbacks persons have no access to an effective remedy according to the standards established by the case-law of the European Court of Human Rights. This case law states that in the context of collective expulsions and related torture, even if criminal proceedings were accessible after the expulsion itself, this is not sufficient to meet the criteria for the effectiveness of a remedy. On the contrary, in order for a remedy to be effective in these cases, it must necessarily have a suspensive effect – that is, the person has to have the possibility to use the remedy before they are expelled from the country. Given that the above-mentioned illegal expulsions from Croatia take place outside the scope of any legally prescribed procedure, there is no remedy that a person could use to prevent police officers from pushing them back.

Moreover, even when persons initiate criminal proceedings for violation of their rights after the infringements have been committed, we are not aware of any proceedings that would be considered as an effective investigation according to the established criteria. Although there have been numerous allegations of torture and violence and, to our knowledge, at least 21 criminal complaints for illegal expulsion and/or violence against refugees and other migrants – no indictments have been brought so far and, accordingly, no perpetrators of reported crimes have been identified, prosecuted or sanctioned in any of the reported cases.

Furthermore, both the criminal complaints related to pushbacks filed by CPS and the proceedings to which CPS had access show that **no actions prescribed under international and national law to identify the perpetrators were taken, the proceedings were generally unreasonably long and they were not carried out with due diligence – hence the criteria for an effective investigation were not met.** Moreover, the ECtHR assessed the investigations into the death of Madina Hussiny and clearly found that Croatia did not carry out effective investigation on the circumstances that led to the six-year-old girl's death and thus violated the procedural limb of her right to life. **We stress that in cases involving victims and witnesses who are refugees and other migrants, the use of expedited procedures is crucial due to frequent changes in their location in search of protection – with the passage of time it becomes increasingly difficult to identify and locate victims.**

Monitoring mechanism in Croatia

³¹ European Commission, *Managing Migration EU Financial Support to Croatia*, published in January 2021, available at: https://ec.europa.eu/home-affairs/system/files/2021-01/202101_managing-migration-eu-financial-support-to-croatia_en.pdf

³² European Commission, *Commission awards additional 305 million to Member States under pressure*, 20 December 2018, available at: https://ec.europa.eu/commission/press-corner/detail/en/IP_18_6884

³³ Foreign Policy, *Croatia Is Abusing Migrants While the EU Turns a Blind Eye*, published on 6 December 2019, available at: <https://foreignpolicy.com/2019/12/06/croatia-is-abusing-migrants-while-the-eu-turns-a-blind-eye/>

Since 2015 Croatia has received 163.13 million EUR of EU support for managing migration.³¹ In December 2018, the European Commission awarded Croatia with 6.8 million EUR to help reinforce border management at EU's external borders by covering the operational costs of 10 border police stations through the provision of daily allowances, over-time compensation and equipment. In a press release announcing this emergency assistance (EMAS) to Croatia, the Commission explicitly referenced the establishment of a monitoring mechanism 'to ensure that all measures applied at the EU external borders are proportionate and are in full compliance with fundamental rights and EU asylum laws.'³² According to European Commission sources, a sum of 300,000 EUR was earmarked for the mechanism, but they could not assess its outcome before Croatia's report due in early 2020.³³ The Ministry of the Interior and the European Commission claimed that the monitoring is jointly conducted by the Ministry of the Interior, Croatian Law Centre and UNHCR. However, both the Croatian Law Centre and the spokesperson for the United Nations refugee agency in Croatia publicly denied involvement in the mechanism. Nevertheless, in December 2019 the European Commission awarded Croatia with additional 11.35 million EUR, and the decision to allocate funds was obviously based solely on the information provided by the Ministry of the Interior.

By February 2020, inquiries conducted by human rights organisations, the media, and the European Parliament revealed that of the sum of 300,000 EUR foreseen for the monitoring mechanism, 215,000 EUR was used for equipping the border police to prevent illegal entry, and 85,000 EUR was used for border police training and conferences. This means that none of the mentioned sum was used for the purpose foreseen by the EC. However, throughout 2020, both the Commissioner for Home Affairs Johansson and Croatian authorities continued to refer to the monitoring mechanism established by EMAS 2018 and the role of UNHCR and the Croatian Law Centre in the project, although both organisations publicly denied that their cooperation is what the Ministry and the Commission present as an independent monitoring mechanism.

³⁴ The Guardian, *EU 'covered up' Croatia's failure to protect migrants from border brutality*, published on 15 June 2020, available at: <https://www.theguardian.com/global-development/2020/jun/15/eu-covered-up-croatias-failure-to-protect-migrants-from-border-brutality>

³⁵ European Ombudsman, *Ombudsman inquiry opened on how European Commission seeks to ensure protection of fundamental rights in border management operations by Croatian authorities*, published on 6 November 2020, available at: <https://www.ombudsman.europa.eu/en/news-document/en/134797>

The EC acknowledged that it relied on the EMAS 2018 monitoring mechanism as a guarantee of respect for fundamental rights when allocating funds and giving Croatia the green light to join Schengen. As it was established that the monitoring mechanism does not exist, the EC should have demanded an investigation, recovery of inadequately used funds and the final initiation of proceedings against the Republic of Croatia, none of which happened. Furthermore, the Commission failed to use the Schengen evaluation procedure to encourage and promote respect for fundamental rights in border management.

The fact that the Commission did not insist on the existence and proper functioning of the monitoring mechanism, did not effectively employ and use monitoring to ensure fundamental rights compliance or did not separately investigate the likely use of EU funds for unlawful practices, along with the lack of full transparency when communicating on this issue³⁴, prompted the EU Ombudsman to open an inquiry into the possible failure of the European Commission to ensure that Croatian authorities respected fundamental rights while conducting EU-funded border operations against migrants and refugees.³⁵

In November 2020, CPS met with the European Commission, DG HOME, prior to their meeting with the Ministry of the Interior, where we once again warned that there is no monitoring mechanism in place and suggested they meet with UNHCR and the Croatian Law Centre as well. Furthermore, we highlighted the need to ensure the independence and transparency of the mechanism and foresee the results of its actions in order for it to be effective. We provided them with suggestions regarding the independence of the monitoring mechanism, the scope of monitoring activities (importance of unannounced visits at the green border) and collection of evidence, training and use of equipment to be required from the police, and accountability mechanism.

In June 2021, Croatian authorities announced the establishment of the Independent Border Monitoring Mechanism which is meant to provide for independent human rights monitoring of border-related operations involving migrants and asylum-seekers. Members participating in the functioning of the monitoring mechanism include two organisations, Croatian Red Cross (CRC) and Center for Cultural Dialogue (CCD), along with the Croatian Academy of Medical Sciences (CAMS), the Croatian Academy of Legal Sciences (CALS), and the legal expert Prof. Iris Goldner Lang. The Mechanism consists of a Coordination Committee (five members, one each from the CAMS,

³⁶ Article 5 of the Cooperation Agreement for the implementation of an independent mechanism for monitoring the conduct of police officers of the Ministry of the Interior in the field of irregular migration and international protection of 8 June 2021, annexed to the first half-year report.

³⁶ Amnesty International (AI), Are You Syrious (AYS), Border Violence Monitoring Network (BVMN), Centre for Peace Studies (CMS), Danish Refugee Council (DRC), Human Rights Watch (HRW), International Rescue Committee (IRC), Save the Children International (STC).

CALS, CCD and CRC and Professor Iris Goldner Lang), which independently of the Ministry of the Interior (whose officials are not present at the meetings of the Committee) decides on the implementation of activities, and Immediate Implementers (eight members, two each from CAMS, CALS, CCD and CRC), who perform on-the-spot monitoring sessions based on the decision of the Coordination Committee.

Following the lack of transparency regarding the process of establishing the mechanism, human rights and humanitarian aid organisations warned that the model adopted in Croatia fell short of the standards needed to ensure its independence and effectiveness.

There was no public call for the participating organisations and members nor information about the selection criteria. The authorities have also refused to publish the Cooperation Agreement, which serves as a basis for the work of the monitoring mechanism and includes details about its structure, scope and functioning. Furthermore, the members of the monitoring mechanism lack political and financial independence from the Ministry of the Interior, and the mechanism's financial independence is undermined by the EU's 2021 Emergency Funding (EMAS) grant being processed through the Ministry of the Interior, instead of being directly granted to the mechanism, as demanded by human rights organisations. According to the information released by the Ministry of the Interior and members of the mechanism's Coordination Committee, the mechanism's mandate seems to be limited to an administrative review of files and paper trails concerning closed cases of complaints of alleged police misconduct and an analysis of the legislative and judicial system that regulate the borders, without access to victims of alleged human rights violations during the monitoring process. Also, the announced visits to the green border area require logistical support and accompaniment by the Ministry of the Interior. The Cooperation Agreement was later published as part of the Mechanism's half-year report. It also clearly states that activities of the monitoring mechanism include 'announced visits to the green border'³⁶.

Due to the above-mentioned concerns about the limitations in the functioning of the monitoring mechanism, human rights organisations³⁷ delivered a list of recommendations to the monitoring mechanism's Advisory Committee. The recommendations consisted in setting measurable targets and periodic reviews, increasing transparency, increasing and reinforcing unannounced visits, ensuring access to justice and accounta-

³⁸ Center for Cultural Dialogue, Prvo polugodišnje izvješće Nezavisnog mehanizma nadzora (lipanj - prosinac 2021.), published on 10 December 2021, available at: <https://ccd.hr/prvo-polugodisnje-izvjesce-nezavisnog-mehanizma-nadzora-lipanj-prosinac-2021/>

³⁹ Centre for Peace Studies, First half-year report of the Independent Monitoring Mechanism, published on 21 December 2021, available at: <https://www.cms.hr/en/azil-i-integracijske-politike/prvo-polugodisnje-izvjesce-nezavisnog-mehanizma-nadzora>

bility, assessing training needs, and ensuring complementarity with other mechanisms.

On 3 December, right after the publication of the CPT report, the Independent Monitoring Mechanism published its first half-year report on the website of the Croatian Public Health Institute, which disappeared only a day later. The withdrawn working version stated that the mechanism has ‘detected irregularities in police conduct’, explaining that ‘the police carry out unlawful deterrence (pushbacks) and do not record deterrence permissible under Article 13 of the Schengen Borders Code.’ The Minister of Health later stated that the publishing of the working version was a result of a human error and that therefore it was taken off the official website. A week later, on 10 December, a new version of the 1st half-year report of the independent mechanism for monitoring the conduct of police officers of the Ministry of the Interior in the field of irregular migration and international protection was published on the website of the Center for Cultural Dialogue³⁸. According to the report(s), in the first six months of operation, the Mechanism conducted eight monitoring sessions, of which two were announced, four were unannounced according to the second model (the Head of the Coordination Committee informs the Mol representative that the Mechanism will conduct a monitoring session but does not specify the time or location) and two were unannounced according to the first model (without informing the Mol representative about the session). Monitoring sessions included border police stations Cetingrad, Slavonski Brod, Donji Lapac, Dvor, Stara Gradiska and Trilj. The final version of the report was, however, significantly changed only regarding the findings related to irregularities that were detected in the report released just a week earlier. The new version reported that the mechanism only found that ‘the police carry out permissible deterrence under Article 13 of the Schengen Borders Code, although they do not record them, while in mine suspected areas, in isolated cases, they also allow illicit deterrence’.³⁹ As this was the only change made to the report compared to the working version, it is clear that the mechanism’s independence and transparency remain questionable, and concrete changes are needed for its purposeful functioning.

Conclusion

It is essential to urgently eliminate pushbacks and sanction those responsible. As presented in this report, more than 16,400 people were pushed back in 2020, and at least 9,114 pushbacks took place in 2021. This is a continuation of a six year long illegal and systemic practice taking place in Croatia, evident from the statistical data acquired and presented in this report and numerous testimonies of victims, witnesses, and policemen forced to carry out illegal orders. Moreover, this practice was documented by various institutions and mechanisms, among which CPT, which reveal the high level of organisation of violence and human rights violations against refugees and other migrants. Numerous testimonies provide a detailed account of the pattern police officers use when executing pushbacks for all these years, making it impossible to label them as 'isolated incidents', as the Ministry of the Interior is desperately trying to. The horrors at the Croatian borders where refugees and other migrants of all ages and genders are beaten, tortured, raped, stripped naked, denied access to international protection, and then pushed back to Bosnia and Herzegovina or Serbia have been thoroughly documented. Unfortunately, the silence of the European Union on this matter during all these six years implies their complicity.

A truly independent and effective monitoring mechanism is an imperative. The systematic torture is the main reason we have been demanding the establishment of a truly independent and effective monitoring mechanism – two elements that are clearly missing in the current mechanism agreed by the European Commission and the Croatian Ministry of the Interior. One of the key obstacles to its effectiveness are serious limitations in its access to the so-called green border, area where 90% of pushbacks take place. The official communication from the Ministry of the Interior reveals that access to the green border area is seriously hampered due to the requirement to previously announce any such visits. Announcing the visit would, of course, warn the body subject to monitoring, making any visit to the green border useless, ineffective and jeopardising the core purpose of the mechanism. Therefore, even after five

years of continuous violations, effective monitoring of police officers has not yet been established.

Adequate monitoring of Croatian green border area could save lives. If Croatian green border area had been monitored in 2017, the life of a six-year-old girl Madina would have been saved, and Croatian police officers would have to respect the law and allow her family to seek international protection. Madina would now go to school, play with her brothers and sisters. Today, five years later, no lessons were learned from this tragic event. The horrific death of the six-year-old girl did not urge the Government of Croatia to assume any responsibility, not even after the European Court of Human Rights found that Croatia violated five human rights of this family, amongst which Madina's very right to life. The government's communication regarding this case stayed the same – dismissal of any responsibility and insisting that pushbacks do not happen. Instead of establishing accountability mechanisms and conducting independent investigations, the Croatian government and the Ministry of the Interior decided to stay true to their previous *modus operandi* that relies on dismissing any responsibility and thus announced that Croatia will appeal against the judgement before the Grand Chamber. This decision is not surprising, rather it clearly shows the lengths the Government of Croatia is willing to take in order not to admit responsibility for pushbacks, but also not to prevent their execution. The judgement of the European Court of Human Rights in the case of little Madina and her family offered an opportunity to the Government of Croatia to show respect to a family who lost their daughter and sister due to illegal pushback executed by Croatian police officers, for the first time since 2017. It also offered them an opportunity to at least try and compensate the family from whom they have not only taken a daughter, but whom they also put into arbitrary detention, denying them access to their chosen lawyer or to domestic remedies.

By lodging an appeal to the Grand Chamber, the Government of Croatia is sending a clear message – they do not intend to assume responsibility, nor prevent pushbacks, even though that means more lives of children, women and men lost at Croatian borders and within its territory.

It is crucial to conduct effective investigations into violations of human rights of migrants and other refugees in Croatia and provide effective legal remedies. The absence of effective investigations throughout the five-year period of human rights violations and the lack of legal remedies in the listed

cases call into question judicial processes and the rule of law in Croatia.

This report clearly shows the extent of the pushback practice continuously happening at Croatian borders and within its territory. The ongoing violations of fundamental rights of refugees and other migrants are fuelled by three different factors discussed within the report: a government that refuses to assume responsibility; a monitoring mechanism not allowed to monitor places of violations; and dismissal of cases by the State Attorney's Office without carrying out effective investigations. These factors allow systemic violations of fundamental rights of refugees and other migrants happening on a daily basis. And while the lack of accountability of Croatian institutions is quite evident, the lack of action from the EU is a sign of their tacit complicity. Deciding to keep the status quo means that the European Commission is working against the values the EU was founded on and against the interest of EU citizens, which is why we have to demand its accountability and concrete action to stop and prevent illegal practices at Croatian and all other EU's borders.

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Authors

Centre for Peace Studies, Welcome Initiative

Editors

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