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**WELC**❤**OME!**

**5TH REPORT ON PUSHBACKS AND VIOLENCE  
FROM THE REPUBLIC OF CROATIA:  
ILLEGAL PRACTICES AND SYSTEMIC HUMAN RIGHTS VIOLATIONS  
AT EU BORDERS**

Zagreb, 3rd of April 2019

## Introduction

Collective, unlawful, and violent pushbacks of refugees conducted by the Croatian police officers at the Croatian borders continue to be perpetrated, despite the persistent warnings of numerous international and local institutions and organizations about the harsh and evident human rights violations. The Croatian Government and the Ministry of Interior keep on denying the obvious, in this way *de facto* trying to legitimize violent practices and human rights violations, finding their justification in a misleading interpretation of the law. It is more than evident that **the conduct of the border police of the Republic of Croatia is not in line with the European and the national legislation. This conduct is not only organized but also systemic, thus having all the characteristics of collective expulsions, which is explicitly forbidden by the European Convention on Human Rights and other international legal acts.** For the reasons explained above, there is a clear responsibility of the Police Directorate, the Minister of Interior Davor Božinović, the Chief of Border Management Zoran Ničeno, and individual police officers who, in spite of the existing legal provision on the possibility of refusing to execute illegal orders, exceeded their powers by violating the laws. Therefore, the organizations Centre for Peace Studies (CMS), Are You Syrious (AYS), and the Welcome! Initiative, urgently demand **sanctioning for and termination of the aforementioned practices.**

Recent contributions like the report by Amnesty International<sup>1</sup>, documentaries by ARD television "The Death along the Balkan Route"<sup>2</sup>, Al Jazeera Re:views "At the Line of Separation"<sup>3</sup>, and the article from Deutsche Welle "Refugees dying along the Balkan route"<sup>4</sup> highly contributed to re-actualize the topic of pushbacks, i.e. the unlawful expulsion of refugees from the Republic of Croatia, as well as the consequences of such behaviors, from taking unsafe pathways to the most tragic one, death, but also to other disastrous events such as the one that saw a pregnant woman who miscarried shortly after being pushed back, or countless children who have been permanently marked by the violence of the Croatian police. Apart from the criminalization of the people who seek safety, these testimonies also portray the problematic practices of police pressuring lawyers and civil society organizations providing support to refugees.

In a public discussion on the legislation under which a person can seek asylum, The Chief of Border Management Zoran Ničeno has stated: "A person that has not entered the Republic of Croatia cannot exercise this right neither at the official border crossing nor on the border line." The National Law on International and Temporary Protection, Art. 33 states how "a third country national or a stateless person can express the intention to seek asylum during a border control at the official border crossing". We use the opportunity to remind that the precondition for seeking international protection is being able to actually have access to the system of international protection. This statement from Mr. Ničeno is a distortion of legal facts, which it's just a continuation of the manipulation that Minister Božinović used at the

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<sup>1</sup> <https://www.amnesty.org/en/latest/news/2019/03/croatia-eu-complicit-in-violence-and-abuse-by-police-against-refugees-and-migrants/?fbclid=IwAR1NTIYXt7QpXp9vpWtBSuVp499jPL92YIXrvRdGK46qJqdOF0wayXiXY>

<sup>2</sup> <https://www.index.hr/vijesti/clanak/odvjetnica-obiteljji-madine-policija-me-zastrasivala-nisam-to-nikad-dozivjela/2073807.aspx?fbclid=IwAR05oDfaQX-9iGcunDrMmieuejPoyFRoJA2CPa8qGCI9Hf-N5Hd2cjAZ4vQ>

<sup>3</sup> <https://www.youtube.com/watch?v=uum4qYmJ7g0&feature=share>

<sup>4</sup> <https://www.dw.com/bs/izbjeglice-umiru-na-balkanskoi-ruti/a-48052681>

end of 2018 when he said that persons who illegally enter Croatia do not have the right to seek asylum<sup>5</sup>. People escaping war and other conflicts in affected countries are often unable to obtain or hold necessary documents for a legal entry into another country. Keeping this reality in mind, this kind of an interpretation of the law is extremely worrying:

Europe, that should function as a corrective and remedial to such practices, unfortunately, is not behaving as such. These 'defense' policies of the Fortress Europe come right from out of its structure. These policies are focused on the protection of external borders and highly harmful agreements with countries like Turkey and Libya, made to keep people outside of Europe, as well as sadly well-known methods like police repression, racial profiling and various forms of violence, some of which are outlined in this report.

### Critical Statistics

Statistical recording of conducts towards refugees and migrants is important in keeping track of the ways in which human lives are treated and where those people are then being settled in Croatia, if they are lucky enough to get access to the asylum system. Reporting on such conducts is a responsibility of public institutions in charge for migrants and refugees. The Croatian Ministry of Interior of the Republic of Croatia reported that 8 207<sup>6</sup> illegal border crossings were detected during 2018. That number consists of:

- **“illegal exit from Croatia”** - 2 961 people tried to enter Slovenia and 8 Hungary;
- **“Illegal enter in Croatia”** – 1 829 people tried to enter from Serbia, 676 from Bosnia and Herzegovina, 19 from Montenegro, 15 from different locations which are part of marine and air traffic, while 2 699 people were caught in “an unknown part of the border - inside the Croatian territory”.

From the above mentioned 8 207 people, 1 438 were sent back to third countries, 1 068 applied for asylum, 536 were placed in detention. So, we have the information about the faith of 3 042 people that got in contact with police while illegally crossing Croatian borders, yet we have no information about the faith of the remaining 5 165. Where are these 5 165 people and how has the police treated them? We can only assume that these 5 165 people have been illegally expelled from our country.

Humanitarian organizations that support refugees and migrants on the field have also reported useful statistics, and their perspective provides a far wider insight into the refugees and migrants reality at border areas close to Croatia. By taking their data into account, we get a much larger number of people who registered being in Croatia than the number reported by the Ministry of Interior. From the organizations active in Serbia, Save the Children<sup>7</sup> reports that 6 340 people were pushed back from Croatia to Serbia by the end of November 2018 (2 212 people reported violent behavior by Croatian police officers; 943 reports were filed by unaccompanied minors, of which 436 reported violent behavior by Croatian police officers).

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<sup>5</sup> <https://www.cms.hr/hr/azil-i-integracijske-politike/reakcija-cms-a-na-izjavu-ministra-bozinovica-neznanje-ili-najava-madarskog-modela>

<sup>6</sup> <https://mup.gov.hr/UserDocImages/statistika/2018/Statisticki%20pregled%20temeljnih%20sigurnosnih%20pokazatelja%20i%20rezultata%20rada%20u%202018.%20godini.pdf> (p. 146)

<sup>7</sup> <https://www.savethechildren.net/article/hundreds-children-report-police-violence-eu-borders>

No Name Kitchen<sup>8</sup>, additionally, counts 215 reports (one report includes groups from 1 to 60 people) of pushbacks from Croatia to Serbia during the period between May 2017 and May 2018 – which in average (1 report = 30 people) would mean that there have been reported pushbacks of 6 450 people. Finally, UNHCR Serbia noted there were **10 432 people** collectively expelled from Croatia to Serbia during 2018.

From organizations active on the field in Bosnia and Herzegovina (BiH), Human Rights Watch<sup>9</sup>, according to the data provided by the Ministry of Security of BiH, states that 493 individuals were returned from Croatia to Bosnia and Herzegovina until 27th November 2018, based on readmission agreements. However, No Name Kitchen<sup>10</sup> reported that 1503 people have been pushed back in the surroundings of the border crossing close to Velika Kladuša between 1st January and 31 December 2018. Border Violence Monitoring<sup>11</sup> states there were 368 people who have been pushed back in the vicinity of the border crossing close to Bihac between 29th September and 10th October 2018.

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<sup>8</sup> <http://www.nonamekitchen.org/wp-content/uploads/2019/01/Finished-Border-Violence-on-the-Balkan-Route.pdf>

<sup>9</sup> <https://www.hrw.org/news/2018/12/11/croatia-migrants-pushed-back-bosnia-and-herzegovina>

<sup>10</sup> <http://www.nonamekitchen.org/wp-content/uploads/2019/02/January-2019-Violence-Reports.pdf>

<sup>11</sup> <https://www.borderviolence.eu>

**Table1: Overview of pushbacks of refugees and migrants in 2018 (different sources)**

From Croatia to Serbia		
SOURCE	TIME FRAME	PEOPLE
Save the Children	01.01.2018. - 30.11.2018.	6340
UNHCR Serbia	01.01.2018. - 31.12.2018.	10 432
Illegal crossing – Ministry Of Interior Croatia	01.01.2018. - 31.12.2018.	1829
From Croatia to BIH		
SOURCE	TIME FRAME	PEOPLE
No Name Kitchen - border area around Velika Kladuša	01.06.2018. - 31.12.2018.	1503
Border Violence Monitoring - border area around Bihać	29.09.2018. - 10.10.2018.	368
Illegal crossing – Ministry Of Interior Croatia	01.01.2018. - 31.12.2018.	676
Readmissions - Human Rights Watch	01.01.2018. - 27.11.2018.	493

The difference in statistical data that are published by different sources is significant. We take this difference as an important fact in the conduct of police towards refugees and migrants. International organizations indicate a significantly larger number of people that have been pushed back or deported (according to the terminology of the Ministry of the Interior) by Croatian police officers, which, in the document that should contain the basic security indicators, actually indicates that they do not know (or want to say) where 5 156 people have disappeared from the territory of the Republic of Croatia. It is possible that these are omissions in the data recording, but the monitoring activity of international organizations present on the field indicates that the number of people that the system has not recorded is actually much higher. The findings of the international associations say that the Ministry of the Interior has not only "lost" these people, but also "intentionally-disposed" them. **Precise statistical data about pushbacks and illegal expulsions of refugees from Croatia to neighboring states does not exist. However, a closer look at existing data from different sources allow us to conclude that it's about at least 10 000 people.**

## Deaths

Deaths and tragedies on the way to Europe, but also on its territory, are the tragic consequences of the gap between rigid and selective migration policies of the EU, and the basic needs of people to migrate. Excluded and criminalized because of their country of origin, the so-called third-country nationals who do not accept a life among the wastelands of people in the neighboring countries of Croatia, indirectly or directly built by the EU, are forced to enter Croatia secretly, underground, and hide on its territory. When coming from Bosnia and Herzegovina, refugees are often put in the condition of risking their lives: walking through mine fields, mountain and forest areas, crossing rivers that take their lives away almost on a daily basis. It is rarely spoken about those deaths in public, and there are no relevant official statistics about them either<sup>12</sup>. Regarding Croatia, some international organizations have provided information on at least 12 deaths of refugees and migrants in 2018<sup>13</sup>. Yet just a quick look into the news released by Croatian media from 2018 and 2019 show a significantly larger number.

According to the information at our disposal, based primarily on media articles, the number of deaths of refugees and migrants in Croatia has risen since 2017. Since the beginning of 2018, at least 20 people have died at the Croatian borders. Given the circumstances in which these deaths take place, we suspect that the real number is much larger. Again, we think it is important to underline that these are not numbers. Here, we are speaking about people.

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<sup>12</sup> *The overview of the basic security indicators in the Republic of Croatia* that are published periodically by the Ministry of the Interior also contains statistics of foreign nationals who have been injured, but does not include the data referred to in this report. For example, for the year 2015, the category of foreign nationals did not include the deaths of three Moroccan citizens who died of a fire in the Bajakovo border police facility. In addition to this, numbers of refugees' deaths, that appeared during 2018 in the media and recalled by MOI, are contradictory and clearly unreliable. While according to a statement by the MOI published in the newspaper Jutarnji List of June 2018, in the only region of Karlovac 10 migrants lost their lives, a few weeks later the same MOI declared that in the first six months on the whole territory of Croatia, 8 migrants were killed (Pavelić, Boris, "WHEN LIVES GET IRRELEVANT: How many migrants died in Croatia can not be known." Novi list, 6. 7. 2018.)

<sup>13</sup> For example: Amnesty International, 2018. *Pushed to the Edge: Violence and Abuse Against Refugees and Migrants Along the Balkans Route*, p. 5, <https://www.amnesty.org/download/Documents/EUR0599642019ENGLISH.PDF>; UNHCR, 2018. *Desperate Journeys: Refugees and Migrants Arriving in Europe and Eastern Borders*, [https://data2.unhcr.org/en/documents/download/65373#\\_ga=2.208810642.1213708470.1536311185-1864144361.1536311185](https://data2.unhcr.org/en/documents/download/65373#_ga=2.208810642.1213708470.1536311185-1864144361.1536311185) )

## Testimonies of pushbacks and violence

Brutal practices of violent pushbacks by police officers at the Croatian borders are against both national and international laws and directives. The use of violence and deportation violate Article 4 of Protocol No. 4 to the European Convention on Human Rights (ECHR) on the prohibition of the collective expulsions, as well as Article 3 of the ECHR, which prohibits torture and inhumane or degrading treatment and punishment. Additionally, according to the EU directive on Asylum Procedures (2005/85/EC), every person has the right to seek asylum and to have access to the information about the asylum system. The crucial aspect to recall is that individuals searching for safety in EU member states are not just mere numbers and statistics, but people whose individual experiences reveal the brutality of the Fortress Europe. Violent, illegal and forced expulsions, together with the denial of access to the asylum system, push people into a legislative gray area, and expose them to further uncertainty and danger. Within these gray areas, they are deprived not only of their human rights, but also of their basic dignity, often resulting in humiliation. We can see it clearly in the footage recently published, in which Croatian police officers are forcing a group of refugees to shout “Dinamo Zagreb” and the fascist motto “Za dom spremni”, “For homeland - ready”, the salute used during the World War II by the Ustaše movement.

The aim of this report is to open a significant space for the voices of people who are the protagonists, and who are being silenced and deprived of their fundamental rights at the border of the European Union, a fact that is then deeply reflected in their health conditions too.

1. No Name Kitchen, No Name Kitchen, July 2018<sup>14</sup>

### ***“Please, stop beating my father, beat me”***

Fatima’s family and other men from their camp left Velika Kladuša in the early morning and walked through the Bosnian border to Croatia. The family hoped to reach the European land and apply for asylum, explaining to the EU authorities that they cannot live in Iran due to the oppressive and violent government. When the whole group walked through Croatia, around 25 km from the Bosnian border, they were detected by 5 police Croatian police men. The family tried to speak to the police and ask for asylum, but the only response they got back was: “Shut up!”. The police started searching through the pockets of all people for their phones and money. The police stole all of their money and new mobile phones and destroyed their old phones. After that, the police stripped all the men naked and frisked their bodies. When they were done with the men, the police told all women to get naked and touched all their body parts, including the breasts and genitals:

*“They checked all our body, everything, took our clothes. Outside, all the men could see us, our underwear. They just told the men to put their faces to the other side. All the women were checked, even under their underwear. They also checked my hair. They checked everything”*

One woman tried to resist the body frisk and pushed a police officer away from her, but the police officer started beating her so that the woman fell on the floor.

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<https://www.nonamekitchen.org/en/families-pushback-violence-croatia/>

Following the body check, the police transported all people in a big van to another location, which they could not identify because the van had dark windows [...]

After 30 minutes, they reached a location in the mountains and were told to get out of the vehicle. Then, the police stood in a circle and told all the single men (5) to come to stand in the middle of that circle, and started attacking them with metal batons.

*“When we opened the car, they [police] said to us to come out [...]. My bigger daughter was vomiting in the car, she was sick, and my husband was holding her and coming with her out of the car. I was walking out of the car in front of my husband. I could hear that the police started beating him with batons, but I did not see it as I had my back faced towards him, walking in front. My small daughter was walking as the last one and she saw her father being beaten. When my daughter saw her father being beaten, she said to the police: “Please, stop beating my father and beat me instead of him.” And the police started beating my daughter [pointing at her daughter’s swollen eye and crying]. In this mountain way, the police said to me: “Go straight go back!”. But I told him, “Where back? Where? I don’t know where.” as there was just a steep hill full of threes and thorny plants. The police took a gun and put it into my head and shouted: “Go, go, go!”. and I was so scared, I thought he was going to kill me [crying]”*

When the beating of the men ended, they pushed them back to Bosnia, near Bihać, including Fatima’s son. Fatima and the rest of her family were pushed back to another place, closer to Velika Kladuša. The family walked for hours through the woods in hope to find their way to Velika Kladuša. When they got to a road, they started to wave at the passing cars, but no one would pull over. After some time, Fatima’s daughter jumped in front of a car. The driver pulled over and drove them back to Velika Kladuša.

*“We are all women, men and children. It does not matter which country we are from and which religion, we are all human. The humanity is the only thing that is important, and that is what I respect”, Fatima concludes, visibly shaken.*



***“From my experience, from what I've read in the books, or heard in the news, when you get somebody without a paper in your country, you just bring them back to the border. Do not***

***beat him, he's not an animal, he's a man like you. Why did the 13 policemen beat me for ten minutes in the dark at night? Brother, that's not legal."***  
**Hisham, a victim of a violent pushback**

2. No Name Kitchen – November 2018<sup>15</sup>

***"Three people, door close, fighting fighting, finish, and another three people. Step-by-step."***

On the day of November 5th, a group of 30 people left from an area in between Bihać and Velika Kladuša, approximately 25 km away from the latter city, with the intention of crossing into Croatia [...]. They walked for five days through Croatia and by the morning of the sixth day they prepared to cross a river bordering Slovenia. Of their group, four men from Pakistan, who they had run into on the route, could not swim and stayed behind. The rest swam to the other side utilizing plastic trash bags which they inflated with their belongings inside to use as flotation devices.

Upon reaching Slovenian soil they were greeted by the Slovenian police officers [...]. The Slovenian police saw the others waiting on the Croatian side of the river and called the Croatian police to come pick them up. The group was taken into a car and brought to a police station in Slovenia where they were made to fill out paperwork, without the presence of a translator. They asked for asylum but were refused. The 16 and 17-year-olds who were present in the group specifically stated in their paperwork that they were intending to apply for asylum in Slovenia, to which the Slovenian police replied "no" and crossed out their handwriting on the paperwork and wrote-in Italy as their intended destination. Furthermore, the police claimed that there were no minors present. The group spent one night in jail in Slovenia and on the next day were given over to the Croatian police.



**They were taken to an unspecified place in Croatia and kept collectively in a van for the entire day without being offered food or water, or access to a bathroom [...].** Faced with the lack of access to a toilet, group members were forced to urinate into the soda bottle.

*"I told them that all of these people were hungry and asked for food, and the police officer told me 'give me the money, I'll give you food' "*

<sup>15</sup> <http://www.nonamekitchen.org/en/violence-reports/>

When the night fell, they began to drive to the Bosnian border in a convoy of three vans with approximately 30 people in them. The respondents remarked that in the other vans there were refugees and migrants that were picked up after them [...]. There was also one van filled with police officers that was present by the time they reached the border. Their driver had a black ski mask covering his face. Upon arriving at the Bosnia-Croatia border, the respondents described seeing the doors to their van opening, and then being blinded by flashlights directed into their eyes by the officers present. They then described being taken out of the van, three people at a time, and being beaten by the police officers present:

*“Three people, door close, fighting fighting, finish, and another three people. Step-by-step.”*

The respondents were unable to identify any distinguishing characteristics of the officers present due to the fact that during this process, flashlights continued to be directed towards their eyes. They also described the smashing of their mobile phones, as well as the stealing of their power banks and over 500 EUR prior to the beatings. Faisal and Ali remembered seeing Croatian police officers on each side of the road, in two big lines. The road was described as having a downward incline and in a position above the line of police, the respondents described a large drum of water being placed strategically to leak down the road, making the surface more slippery for the men being pushed back: “The water came from a drum, water downhill, from the drum, pouring downhill, and police on each side... They put the water down for slipping”

[...]. The men described how during this ordeal, the officers present would wait for them to slip and fall down, at which point they would come and beat the individual:

*“Fall down, and then the police come and beat you”*

They were forced to run through this line of police officers, downhill on the slippery ground, for approximately 15 meters until they reached the safety of the forest in Bosnian territory [...]. Ali described a family being present within the group of people being pushed back. [...] Faisal described himself as being hit in the eyes, the front of the head, the back of the head, his legs, and his arms during the pushback. After getting out of the van, he described himself as running and then slipping several times. He remembered three police officers holding him, while two beat him with sticks. The respondents described one of the officers present during their processing in the Slovenian police station as having shoulder length, brown hair, and standing at perhaps 5 feet tall. Ali reported that he remembered her police code number as: 00448801. He said that in total, there were perhaps seven other officers present in the police station during their time there.

3. No Name Kitchen – November 2018 <sup>16</sup>

***“We want to throw up, they don’t care about us being in the car,  
if you are dead or alive, they don’t care”***

The interviewee and his cousin left in a truck from a place near Velika Kladuša. They crossed the border inside the truck [...]. The police checked the truck to see if the truck's tarpaulin

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<sup>16</sup> <http://www.nonamekitchen.org/en/violence-reports/>

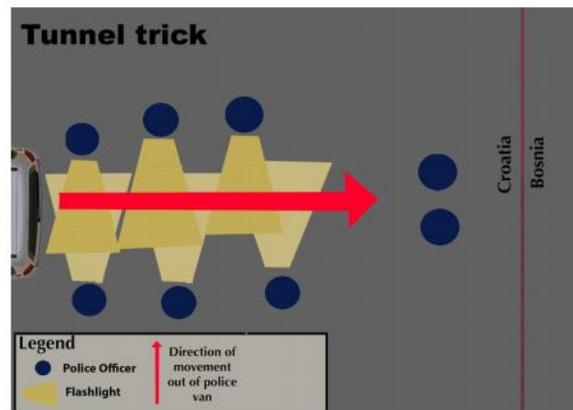
was destroyed, but it remained untouched [...]. The police officers first went to ask if the truck driver took any money from them and, if so, what amount. Then they asked the same question to the interviewee and his cousin to which the interviewee answered that the driver did not know about their presence in the truck. They checked the tarpaulin again and took the two people to a police station. The police station was described as a small old police station with only two rooms. There, they filled up a form up with name, surname, date of birth, origin, which the interviewee signed along with his cousin. Their fingerprints were also taken. Then they were driven in a big car to a second police station, which the respondent identified as being in Delnice, about an hour away from the first. The couple were not able to see anything from the car since there were no windows in the back. The respondent described the police station as having three or four rooms like a jail on the first floor. He remembered being brought to the basement after entering, at which point there were three policemen standing in the dark. The first question they asked was if the two men spoke English, they answered that they could only speak Arabic. When they were at the police station, the interviewee and his cousin were separated and taken to different places to be interviewed. Whenever the officers asked questions, the two persons were beaten up with a baton. The interviewee spoke about "torture". [...] According to the interviewee, the interrogators offered to give them asylum if they admitted that the truck driver had helped them to cross the border in exchange for money.

He reported that they said to him in exact words: "We accept your asylum, we take you to the camp with paper, with everything, just tell us that this man takes the money and put it inside, it's simple". He talked about being beaten up at the second police station with an electric baton, as well as being beaten in the head many times with a baton. Four papers were presented to them to sign at the police station, the two men asked for translation because they could not understand but they did not get it. In response, they refused to sign it, and were beaten again. From the second police station, they were driven for approximately two and a half hours back to the Bosnian-Croatian border. The driving conditions were bad, and the respondent relayed that they wanted to throw up: "We want to throw up, they don't care about us being inside the car, if you are dead or alive, they don't care".

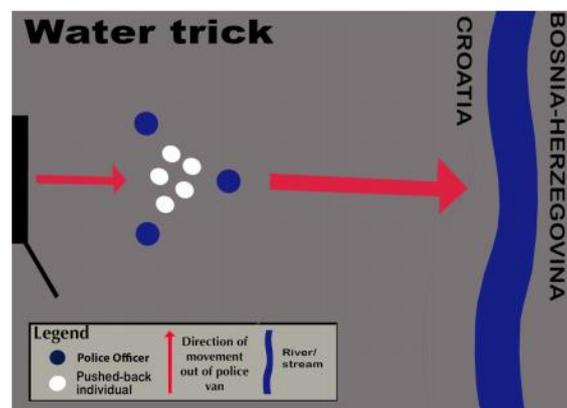


When they arrived at the border, they were taken out one by one from the van. The interviewee declared that a policewoman said to him "Next time if we arrest you or catch you, we will beat you so much, kill you or put in prison". When he went out of the van, it was dark, and he could not see much. He walked about two meters forward and then several police officers began to beat him with batons. The respondent described that the place he was pushed back at had a handmade, wooden wall, which people trying to run away from the Croatian border police had to climb up over. [...] According to the interviewed person, at the place where they were pushed back, there is a lot of evidence (broken phones, broken jackets, etc.).

\*It should be understood that the interviewee reported that the discoloration of his hands in the left picture was a result of the electric shocks administered to him by Croatian police officers. Still, doctors from MSF suggested that this was most likely a result from a pre-existing condition, which may have been aggravated by the electric shocks.



"Tunnel trick" method of push-back - previously use commonly



"Water trick" method of push-back - currently used commonly

Tunnel Trick and Water Trick: Illustration made by No Name Kitchen on common violent practice of border police, based on testimonies and witnesses that experienced it.

#### 4. No Name Kitchen – January 2019<sup>17</sup>

***"Croatian police catch me the same way as an animal."***

The group left from Velika Kladuša (BiH) and walked to Slovenia. Eventually, they were caught by the Slovenian police while they were walking along a small path in a forest during the evening. The group of five to six policemen **fired in the air**, at least three times and the group stopped approximately twenty meters away from them. The officers wore green military fatigues and carried long rifles. One of the officers was female. The group was soon brought to a police van parked approximately 700 meters away from the place where they were apprehended. After this, they were driven for thirty minutes to a police station at the Slovenian-Croatian border. When they arrived at the police station, "They [policemen] take our name, ask where we go, remove our clothes, jacket, shoes, everything, even underwear, in the office of the police station".

<sup>17</sup> <http://www.nonamekitchen.org/wp-content/uploads/2019/02/January-2019-Violence-Reports.pdf>

*“We stay in the line, outside. They take our clothes and look through pockets, money [...] we stayed in line and spoke for each person and one by one, take our clothes off. I saw a policewoman then”*

They were then forced to take off all their clothes and be fully naked. Later, they were made to sign a paper requesting 240€ from them, even though the officers had previously taken all the money they had found in their clothes. “After they brought me to a closed, empty room and we told him [to a policeman] we need some food because for two days we didn't eat, they brought biscuits, water and chocolate.” Two hours later came the translator [...]. The respondent described that the translator interrogated them like a police officer. According to the interviewee, he conducted the interview without waiting for a question from the police officers. “He did the interrogation without the police, in Arabic, and then reported whatever he wanted to the police.” The translator was described as an old man, about 68 years old, brown eyes, about 65 kg and 1,65m tall, grayish hair. He wore glasses and had a strict demeanor. After the translator finished his interview, the policemen took the group-members to an office to take their fingerprints. A policeman came during the night to tell them that they would leave the next morning to go to Croatia. Accordingly, the next day they were brought to a checkpoint at the Croatian border at 10:00 am [...].

*“Croatian police catch me the same way as an animal.”*

They had to fully undress again at the Croatian border station: “After removing my clothes, all, all, all of it, stripped down.” “They drop me in the street, but there is a space [inside], but they frisked us and removed my clothes. At this location, a Croatian police woman took a picture of the face of each member of the group. The group stayed for approximately seven hours at the border checkpoint on the Croatian side, before being transported to the Bosnian border in a van. “After entering the bus, my friend felt sick inside. They put the air-conditioning on inside the bus. When I saw my friend, I thought he will die. His finger became hard, he had a problem in his stomach and saliva was coming out of his mouth. That’s why I punched the door and screamed, please, please, please, we need ambulance, my friend will die, he needs to go to hospital”. They did not answer to his call, the respondent thinks that either they didn’t hear him, or they didn’t believe him, but they didn’t stop the vehicle. The interviewee thought that his friend collapsed because of the stress of the situation: “First, he was afraid, and after that, it was really cold. I punched the door, “please we need a warm place, but nobody cares.” [...] “We were too afraid that they would beat us”. Eventually, they arrived at the official checkpoint at Velika Kladuša.

5. Border Violence Monitoring, No Name Kitchen report, December 2018<sup>18</sup>

***“And they take us during the night because they want to beat us”***

The group of eight crossed on foot from Bosnia to Croatia on the night of December 13th, leaving from a point close to Velika Kladuša. From there, they walked for three days before

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<sup>18</sup> <https://www.borderviolence.eu/violence-reports/december-16-2018-0000-push-back-between-pasin-potok-croatia-and-smrekovac-bih/>

reaching a point in the Croatian territory where they were picked up by a car and driven towards Slovenia in the morning. Shortly after entering this car, they were stopped by two Croatian police officers who took them out of the car and made them wait until a van came, which drove them to a police station. It took around 30 minutes, when they arrived at a police station. It had a glass entrance door, followed by a hallway. The group was led downstairs to a room in the basement where they had to sit on the floor. They stayed there during their whole time in the police station. At the station, the police made them sign a paper that no-one of the migrants understood. The interviewee reported that it was written in Croatian. At one point he asked the 'head' officer for asylum in Croatia. The officer replied: "Are you a doctor? Are you a doctor? I'll take you. [If you are] not a doctor, I can't take you". There was a translator present for some time during the group's stay in the police station. He was described as an elder man from Sudan (perhaps 65 years old with white, balding hair and dark black skin) who translated from Arabic to Croatian. The group had to stay in the room from morning to evening: "And they take us in the night because they want to beat us".



They left the police station at "exactly 9 PM" in a white van with a blue stripe down the side driven by one police officer. They drove for approximately 25 minutes to a second police station, followed by two other police cars. From the second police station the group drove for 30 minutes to get to the Bosnian-Croatian border where they arrived at around 10 PM. There, the entire group was taken out of the van and surrounded by a group of nine Croatian police officers who wore black ski masks covering their faces and black uniforms. "There were eight of us and nine from the police". After they left the car the police officers started to prod and hit them with batons and afterwards told them to walk approximately 70 metres from the cars to the border which is marked by a stream. The policemen went with them and hit them to keep the group together. Beating them, they directed the migrants towards the little river and began forcing them to move into the cold water. Several of the officers picked up ice and snow from the ground to throw it at the group members while they were walking.

*"[They] take the ice and throw [it on us]"*

First, Ibrahim hesitated to enter the river. He was struck down to the ground by the strike of a police baton. When he fell onto the ground, he received a kick to his torso which made his head lunge toward the ground and smash into a broken tree branch. The branch tore into his right eyelid, leaving him with an open wound. After the officers saw the man screaming because of his eye, they continued to hit him and usher him into the river:

*“Go! Go! Don’t come back to Croatia!”*

When he entered the river, the police officers threw pieces of ice at his back. He described the river as rising up to his waist. The officers took eight mobile phones, ten power banks and 150€ from one of the group’s members. After the group crossed the border back to Bosnia, they walked for approximately five kilometres back to Miral camp with their clothes and shoes soaked with the water from the river.

6. Border Violence Monitoring, January 2019<sup>19</sup>

***“He didn’t ask about my age. From the moment he came, he didn’t stop beating me.”***

On the night of 20<sup>th</sup> of January, a group of three Iraqi, one of them underage, started walking from Bosnia towards the Croatian border. After entering Croatia, they headed towards Glina, from where they planned to continue their trip by bus.

*“We walked through woods until we found ourselves at the bus station”*

The group walked through a forest for a couple of hours with snow up to their knees. After some time, the 15 year-old Iraqi described seeing a police patrol moving around:

*„I saw a police patrol, they were searching the area and [we] turned around from the police and went down into the forest “*

When the police left, the group went back onto the road they had been traveling on and continued. Shortly thereafter, the group came upon what was described as “police camp” at approximately 1:00 am. The respondent reported that at this site, there were police camped out in tents, waiting for people to go by:

*“They had their own tents, waiting for whoever comes around”*

The respondent had been at the head of the group and he described that perhaps he was walking too fast at this point, which put some distance in between him and his other group-members. They passed through the tents and the police heard the footsteps of the other group members. Two police officers came out of their tents and with their guns drawn they told the group to stop.

One of the officers kicked the respondent in the face during this exchange. The officer told the respondent to “stop”. When the police officers told them not to move, they froze. The respondent laid down in the snow, at which point the officer approached him and kicked him in the face. The officer put his shoe on the face of the respondent, crouched down to him, cocked his gun, and placed it on his right temple. This officer was described as being heavysset,

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<sup>19</sup> <https://www.borderviolence.eu/violence-reports/january-21-2019-0100-croatian-interior-close-to-glina/>

around 32 years old, his head shaved on the sides and with short hair on the top. He wore a dark blue uniform, was clean shaved and approximately 180cm tall.

The 15-year-old respondent reported that it was the first time anyone had ever pointed a gun at his head and that he was terrified:

*“He didn’t even ask about [my age], from the moment he came, he didn’t stop beating me.”*

The police officers searched through his phone and saw that the respondent had GPS data pulled up. After this, they searched through his belongings. The respondent did not ask for asylum because the officers “never gave us the chance to ask for [asylum]... the officers started to beat [me] and kick with their shoes.”

The same patrol that the group had successfully evaded before arrived to the scene in a van. There were three police officers in this vehicle. Shortly thereafter, another van arrived, which carried only one police officer.

The group of migrants had to enter the second van, which then took them back to the Bosnian-Croatian border at approximately 2:30 am. It took the group around 30 minutes to drive back to their pushback site. When they arrived back to the border, there was one car which was waiting for the group which had two police officers inside. They also wore dark blue uniforms and had their faces unmasked.

They were taken out of the van one-by-one. The respondent was first, he was told by one of the police officers to approach, the officer broke his phone, returned it back to him, and told him that Velika Kladuša was twenty kilometers away. He then attempted to walk back with his group to the camp, but since their phones had been broken and they didn’t have access to GPS, he got lost and didn’t find his way back until 7:00 am the next morning.

## Contributions of the partners from the region

### Asylum Protection Centre (APC), Serbia<sup>20</sup>

During 2018 and in the first months of 2019, a large number of migrants from the territory of Serbia tried to reach Croatia through the border crossing without valid documents. In this attempt, migrants were stopped and illegally returned through the same way from the Croatian police to the territory of Serbia. APC records this illegal behavior as systematic pushbacks, preventing access to territory and returning people to Serbia illegally. In addition to this, Croatian police **uses force, insults and humiliates refugees, destroying their properties** - mobile phones and chargers, and **taking away the money and their mobile phones<sup>21</sup>**. Not even unaccompanied minors were spared from violence<sup>22 23</sup>.

Throughout the year 2018 APC recorded an increase in the number of chain expulsions from Slovenia, through Croatia to Serbia, and from Hungary through Croatia to Serbia. According to the testimonies of people that have been pushed back to Serbia, also those who were never in Serbia before, have been returned to the country<sup>24</sup>. The Serbian police tolerates such behavior of Croatian police officers and accepts all migrants who have been pushed back to Serbia.

As migrants testified, the Croatian police illegally returns not only from the border with Serbia, but also from within the depths of the territory, from the area of Zagreb, as well as from the border with Slovenia, as it has already been mentioned. Asylum-seekers do not have access to their right to seek asylum, their intentions are ignored and they are in the same manner pushed back.

APC has noted several cases of cruel violence against migrants, such as the inhumane and degrading treatment outlined by the case of five Iranians. In December 2018 they suffered serious injuries after the violence perpetrated by Croatian police officers, who had previously forced them for more than an hour to lay on their knees in the snow, with arms raised above their heads<sup>25</sup>. In March 2019, there was another case of two Iranians who had to go through the intervention of urgent medical assistance and surgical treatments in Serbia after the violence by the Croatian police and the pushback to Serbia<sup>26</sup>. Moreover, APC points out two cases from September 2018. The first one has involved unaccompanied children, who have been terrified by a Croatian policeman pointing a gun towards them and then firing in the air, threatening to shoot them<sup>27</sup>. The second one involves a man who was in the group of 100 people, who had been robbed and then forced to walk barefoot back to Serbia<sup>28</sup>.

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<sup>20</sup> <http://www.apc-cza.org/en>

<sup>21</sup> <https://docs.google.com/document/d/1c3nuOqjmG9kOIO6Wt26H85vk7WCkXaLQ28eOnZXOMEE/edit>

<sup>22</sup> <http://azilsrbija.rs/hrvatski-policajci-pretili-oruzjem-decacima-iz-avganistana>

<sup>23</sup> <http://www.apc-cza.org/sr-YU/8-vesti/1477-sve-veci-broj-migranata-pokusava-prelazak-preko-hrvatske-granice-medu-njima-veliki-broj-maloletnih-decaka.html>

<sup>24</sup> <http://www.apc-cza.org/sr-YU/8-vesti/1478-iz-hrvatske-u-srbiju-policija-prebacila-100-opljackanih-i-bosih-migranata.html>

<sup>25</sup> [https://twitter.com/APC\\_CZA/status/1076193437278527488](https://twitter.com/APC_CZA/status/1076193437278527488)

<sup>26</sup> [https://twitter.com/APC\\_CZA/status/1105387195391795200](https://twitter.com/APC_CZA/status/1105387195391795200)

<sup>27</sup> <http://azilsrbija.rs/hrvatski-policajci-pretili-oruzjem-decacima-iz-avganistana>

<sup>28</sup> <http://www.apc-cza.org/sr-YU/8-vesti/1478-iz-hrvatske-u-srbiju-policija-prebacila-100-opljackanih-i-bosih-migranata.html>

### Italian Consortium of Solidarity (ICS), Italy<sup>29</sup>

Between October and November 2018, ICS collected the testimonies of several asylum seekers regarding a series of illegal refoulements by the Italian police over a period between June and October 2018, which also emerged in several articles of national and local newspapers (Il Fatto Quotidiano, La Stampa and Il Piccolo).

In all instances, what emerged is the strong arbitrariness of the Italian police and the fact that there were "chain pushbacks", meaning that the Italian police handed over the migrants to the Slovenian police. The latter then proceeded to send the migrants back to the Croatian police who then pushed them back to Bosnia. The testimonies speak of verbal and physical violence by the Croatian police during the process of refoulement.

The Italian police reiterated, through statements by the Quaestor of Trieste, about the correctness of these procedures, defined as "re-admissions".

At the end of year, at a press conference in Questura, it was reported that 300 re-admissions had taken place in 2018, but we have no way of evaluating how many of these were carried out in the manner described above and how many of the procedures followed the official and agreed protocols between Italy and Slovenia.

### LEGIS, North Macedonia<sup>30</sup>

Legis from the Republic of North Macedonia is on the field following the situation of the refugees and migrants in the country and the region since 2014. The migration process and the refugee transit route is a chain reaction affecting all the countries in the region. LEGIS is concerned about the bad treatment and violation of the basic human rights of the refugees who are pushed back from Croatia. They think warn that Croatia, as a member state of the European Union, must be a positive example for the countries in the Balkans, respecting the human rights and following the Geneva Convention, not doing the opposite. Especially, since allowing the NGO sector to be present and working with the state institutions can only ensure a better rule of law and transparency in respect to the human rights of the refugees and migrants.

Additionally, LEGIS pointed out that 1242 pushbacks from Greece were recorded in Northern Macedonia at the beginning of the year.

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<sup>29</sup> <http://www.icsufficiorifugiati.org>

<sup>30</sup> <http://www.legis.mk>

## **Criminalization of Solidarity**

It is important to emphasize that we, as activists and as organizations, are under the systematic pressures of the Ministry of the Interior from the very moment we publicly spoke about the death of the six-year-old girl, Madina Hussiny, on the Croatian border with Serbia. Her death, we wish to remind, was a direct consequence of illegal expulsion and pushback from Croatia, and perhaps the most dramatic example of the merciless violation of human rights of refugees at the Croatian borders. Rather than actually investigating the circumstances of her death, the Ministry of the Interior "lost" the thermal imaging camera recordings and started a defamatory campaign against Are You Syrious and Centre for Peace Studies, with a clear goal of presenting us as unbelievable and non-reliable organizations, in the moments when we raise concern about the illegal behaviors and practices of the Croatian police officers towards refugees.

Methods used by the Ministry of the Interior are quite similar to the pressures that Croatian journalists have been exposed to in recent months: the police entered our offices and legitimized us without offering any explanation, our volunteers and employees were subjected not only to numerous anonymous threats but also to open and direct intimidation by some officers in police stations. At the same time, the Ministry of the Interior initiated a misdemeanor procedure against one of the AYS volunteers, claiming that he is responsible for helping Madina's family to illegally cross the Croatian border, although the volunteer had never had direct contact with the family – a fact that has been proven in court. It is particularly bizarre that the Ministry of the Interior, in the misdemeanor procedure against a private person (volunteer AYS), demanded in the court the ban of the work of the whole association, for which there was no legal basis, but it sent a very clear message about the intentions to attempt to silence our organizations.

At the end of last year, after 15 years of uninterrupted co-operation, CMS lost access to Reception Centers for asylum seekers (in Croatia, they are all managed by the Ministry of the Interior), where the organization was running activities and services like free legal counseling, cultural and integration activities to refugees. Since January this year, the Ministry of the Interior has not extended the cooperation agreement with AYS, which in Reception Centre Porin consists of working with children every day, teaching Croatian language and supporting the educational process. In this way, our organizations notice how the Ministry of Interior is "punishing the disobedience" in a way that is primarily affecting the most vulnerable actors - children and adults in the process of seeking asylum, whose benefit should be a common interest of both the Government of the Republic of Croatia and non-governmental organizations.

Amnesty International warned about the pressures that our organizations are experiencing, with a report published at the beginning of March 2019. Concerns have also been expressed by members of the European Parliament, representatives of the European Commission and other international bodies we regularly meet.

**With this report, we want to express our demands to the relevant institutions, as well as to the wider public in the Republic of Croatia and the European Union**

**To Croatian authorities:**

- We express solidarity with all the individuals who have suffered violence at the borders of the country in which we live in
- We demand that violence and illegal behaviors at the borders IMMEDIATELY stop
- We demand that the responsibility for violence and illegal acts at borders starts to be taken, and that those directly responsible for violence and human rights violations at the Croatian borders be sanctioned
- We demand that Croatian and European legislation cease to be used for the purpose of carrying out violence and illegal behaviors at the borders
- We condemn the abuses of Croatian and European legislation for the purpose of carrying out violence and illegal behaviors at the borders
- We demand that Croatian and European legislation and applicable conventions are used fairly
- We demand respect for human rights and dignity at the Croatian borders and in the whole territory of the Republic of Croatia
- We require a thorough investigation into the illegal and violent expulsion of refugees across the borders of the Republic of Croatia
- We require adequate documentation of migrant deaths in border areas and transparent informing of the public about it
- We demand that the authorities in charge stop criminalizing solidarity, and all the groups, individuals and organizations that work with and support migrants and refugees

**To the European Union:**

- We demand the focus of action and intervention within the area of migration to be committed towards an access to international protection and integration, rather than focusing on border protection and migrant return to the so-called "third countries"
- We demand an end to the harmful co-operation with countries outside the European Union, which endanger the lives, security and human rights of refugees and migrants - such as Afghanistan, Libya and Turkey
- We demand the European Union's solidarity with the countries on the Balkan Route (BiH, Serbia, Macedonia)
- We require the provision of safe and legal routes for refugees in need of international protection

## **ANNEX: Collective expulsion, or why the conduct of the Ministry of the Interior is against the European and national law**

The Croatian Foreigners Act, Article 1 states that this Act transposes **the Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals**, into the legal system of the Republic of Croatia, which clearly shows that the Ministry's conduct was not in accordance with the mentioned Directive.

In accordance with the aforementioned Act and the Directive, it is necessary to state the following:

**1. Point 8 of the Directive.** It is recognized that it is legitimate for Member States to return illegally staying third-country nationals, provided that fair and efficient asylum system is in place, which fully respects the principle of non-refoulement.

It is necessary to emphasize that the premise of **legality** in returning third-country nationals, is a clearly prescribed obligation to respect positive regulations and laws when deciding on expulsion / return, which entails certain procedures based on the law. Also, the controversial practice in this case exists specifically in order to prevent access to the system of international protection; precisely because of the way that the International and Temporary Protection Act prescribes the right to express intent, in its Article 33. In this way, this practice circumvents it and disables access to the Croatian asylum system. It is also questionable to what extent and whether the principle of *non refoulement* is respected at all, since there is no way to check for the possibility of occurring chain refoulement, because people in this case were being expelled from the forest, without any procedure, without any records and without any assessment of their situation.

**2. Point 17. Of the Directive.** Third-country nationals who are detained by the police **should be treated in a humane and dignified manner with respect for their fundamental rights and in compliance with international and national law.** Without prejudice to the initial apprehension by law-enforcement authorities, regulated by national legislation, detention should, as a rule, take place in specialized detention facilities.

The police conduct in question is anything but humane or dignified; it is als, evincing that it violates Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

**3. Point 23 of the Directive.** **Application of this Directive doesn't put into question the obligations resulting from the Geneva Convention relating to the Status of Refugees** of 28 July 1951, as amended by the New York Protocol of 31 January 1967.

**4. Point 24 of the Directive.** **This Directive respects the fundamental rights and observes the principles recognized in particular by the Charter of Fundamental Rights of the European Union.**

**The EU Charter of Fundamental Rights clearly states in Article 28 the right to asylum and the obligation to respect the Convention on the Status of Refugees, and in Article 19 prohibits the collective expulsion.**

**5. Article 1 of the Directive.** This Directive sets out common standards and procedures to be applied in Member States for returning illegally staying third-country nationals, in accordance with fundamental rights, as general principles of Community law, as well as international law, including refugee protection and human rights obligations. Considering that no procedure is being conducted and, from other circumstances and sources, it follows that there is a large number of refugees among expelled persons who would express their intent for seeking international protection in the Republic of Croatia, but by not carrying out the procedure and not recording the incidences of illegal border crossings, this kind of **collective expulsion disables access the asylum system in the Republic of Croatia.** These persons have legal basis for submitting a request in accordance with Article 33 of the International and Temporary Protection Act. In this way, they could regulate their stay, **but the entire practice of the Ministry, as well as the conduct of specific police officers, is done precisely to prevent them from doing so.** The Directive is clear here, it clearly states and prescribes that the return measures do not apply to persons whose international protection request has not yet been resolved.

**6. Article 4 of the Directive.** On the application of more favorable provisions, this Directive doesn't put into question favorable provisions of: bilateral and multilateral agreements between one or more Member States and one or more third countries. **This Directive does not question any provision that would be more favorable for a third-country national as established by the Community acquis concerning immigration and asylum.**

**Point b.** of the same article; in respect to third-country nationals exempted from the scope of this Directive, in accordance with Article 2 **member states are obliged to respect the principle of non refoulement.** Article 2 states that Member States may decide not to apply this Directive to third-country nationals who have been denied entry in accordance with Article 13 of the Schengen Borders Act or who have been arrested or detained by the competent authorities for the illegal crossing of land, marine or airborne external borders of a Member State and who subsequently did not receive a permit or were denied the right of residence in that Member State.

**The Schengen Borders Act, in Article 13 states: 1.** The main purpose of the state border protection is to prevent unauthorized border crossings, suppress cross-border crime, and take measures against persons who have crossed the border illegally. A person who has crossed the border unlawfully and who is not eligible to reside in the national territory of the Member State concerned must be arrested and subjected to procedures in accordance with Directive 2008/115 / EC.

It is important to mention a few things. Firstly, the principle of *non refoulment* for which an explanation was given previously, and secondly, that the Republic of Croatia has decided to

issue a Notice in accordance with Article 33 of *The Ordinance on the Treatment of Third-country Nationals* to the persons referred to in Article 2 of the Directive on treatment of third-country nationals. In the content of the Notice, the need to recognize vulnerable groups, victims of torture and the necessity of protecting persons who are under threat if returned to their country of origin is written clearly. The Ministry of Interior has failed to comply with that when it comes to the migrants in question.

It also calls for a readmission agreement that the Republic of Croatia is obliged to implement in concrete situations.

It is also important to emphasize the **Article 14 of the Schengen Borders Code**, which clearly states that the application of the existing provisions of the Schengen Border **Code does not call into question the application of special provisions on the right to asylum and international protection** or to issuing visas for long-term residence. (In this case, the provisions of Article 33 of the International Protection Act.)

The Directive also points to the Readmission agreement that the Republic of Croatia is obliged to adhere to in situations such as this one in question, i.e. returning migrants to Bosnia.

**7. Article 8** of the Member States may adopt a separate administrative or judicial decision or act ordering the removal. Where Member States use — as a last resort — coercive measures to carry out the removal of a third-country national who resists removal, such measures shall be proportionate and shall not exceed reasonable force. They shall be implemented as provided for in national legislation in accordance with fundamental rights and with due respect for the dignity and physical integrity of the third-country national concerned. **Member States shall provide for an effective forced-return monitoring system.**

The whole Article 8 refers to the removal measures and again, prescribes the procedure to be applied in these situations, as well as for monitoring it. However, in the specific case, the Ministry of the Interior did not conduct any such proceedings.

**8. Article 9 of the Directive** again prescribes the obligatory respect of *non refoulement* and a **needed delay in returns if such action would violate the principle of non-refoulement.**

**9. Article 10 of the Directive** relates to the removal and return of unaccompanied minors and states that prior to the issuance of a return decision with regard to unaccompanied minors, the assistance of the appropriate bodies other than those carrying out forced return will be granted, taking into account the best interest of the child.

Given that this is a case of the collective expulsion, where no procedure was conducted, and that there have been witness reports of unaccompanied minors being expelled, as well as testimonies of violence against them, it is obvious that these provisions are not adhered to by the Ministry. In support of this, the fact is that no proceedings have been conducted at all,

in the sense that they have not been granted the assistance of the competent authorities such as Social Services. It is to be particularly pointed out that by not conducting the prescribed procedure, police has not even established whether there are unaccompanied minors among the refugees, or any other members of vulnerable groups at all. Such conduct undoubtedly violates a number of protected children's rights.

**10. Article 13 of the Directive** prescribes the obligation to have access to legal remedies, specifically, that a third-country national has the right to an effective remedy of a complaint or review of a return decision before a competent judicial or administrative body, or a competent body composed of members who are impartial and independent.

The purpose of this is to clearly state how, **the European legislation, as well as Croatian national law, clearly and unequivocally prescribes the standards and obligations of the state in dealing with irregular third-country nationals.** It is clearly indicated when and why the return process is being conducted and how. Also, the Directive explicitly refers to the Charter of Fundamental Rights and its prohibition of collective expulsion. So, in situations in which the Ministry of the Interior wants to return people who have illegally crossed the border, and in a situation where there indeed aren't refugees who would seek international protection in Croatia, they are obliged to conduct an individual procedure for each person, in accordance with [the Foreigners Act](#), and specific return measures in accordance with the [Rules on the treatment of third-country nationals](#), as well as the Readmission Agreement (the [Law on the Confirmation of the Agreement between the Government of the Republic of Croatia and the Council of Ministers of Bosnia and Herzegovina on the acceptance of persons whose entry or stay is illegal.](#))

As for the specific provision of the **Foreigners Act** and in which way it relates to everything else, it is worth establishing a few terms, for purposes of demarcation:

**The return** is a voluntary departure or forcible removal of a third-country national who illegally resides in the Republic of Croatia to a third country.

**The forced return** is the departure of a third-country national from the Republic of Croatia under police escort, regardless of the consent of a third-country national.

As for the specific **Article 100 of the Foreigners Act**, it reads as follows:

Paragraph 1. Specifies concrete measures to ensure return

Paragraph 2. Measures to ensure return shall apply to third-country nationals who do not have the right to freedom of movement in accordance with European Union law, unless otherwise provided by this Act.

Paragraph 3. The provisions of this Act on measures to ensure return shall not apply to:

- Third-country nationals who have been found on the border with a third country during or immediately after the illegal entry;
- Third-country nationals to be refused entry at the border crossing - these would be the situations of having invalid visas, or a previous decision to prohibit entry and such
- Third-country nationals to be extradited under an international treaty

In the sense of the Foreigners Act, measures to secure returns are considered:

- a. Limitation of freedom of movement, in terms of arrest, taking into custody and detention for a maximum of 24 hours, if it is necessary to make a decision on refusal of entry or decision on return, when it is necessary to issue a decision on expulsion, a decision on return and other decisions (referred to in Article 115)
  
- b. Deadline for voluntary departure, in the sense that a third-country national who is illegally staying or whose residency has been terminated by a decision of the state body will be given a reasonable deadline in which he is obliged to leave the EEA and threaten him with the forced removal (more detailed in Article 103.)
  
- c. Prohibition of entering and staying, with a decision on expulsion and all that it entails; a deadline is determined until which a person is prohibited from entering and staying in the EEA.
  
- d. The obligations of a third-country national in the return process, in particular: the deposit of travel documents, other documents, financial assets, the prohibition of leaving a certain address, etc.
  
- e. The forcible removal is the departure of a third-country national from the Republic of Croatia under police escort, regardless of the consent of a third-country national. It refers to a person who has not left the EEA / Croatia within the time limit determined by the decision, or a person for whom a return decision is not issued when there is a risk of avoidance (in which case, such a person is taken to migrant detention centre), when his request for residence permit has been rejected as unfounded or false, or when they can be forcibly removed to an EEA State under a readmission agreement that came into force before 13 January 2009, or they pose a risk to national security.

This in particular means that for persons in this situation, referred to in Article 100, the Article 33 of the Ordinance is applied, and when they are returned to Bosnia, the procedure has to be conducted in accordance with the Readmission Agreement, based on the assumption that they indeed do not want to seek international protection in Croatia.

- f. Other measures prescribed by this Act aimed at the return of a third-country national to a third country.

Third country nationals in said situation are issued the Notice in accordance with the Ordinance.

The Ministry of the Interior is obliged to keep detailed records of persons for whom such notices were issued, as well for those who have been returned via readmission.

**Article 112 of the Foreigners Act**, which states that a citizen of a third country who illegally resides or illegally crosses or attempts to cross the state border can also be issued a decision on expulsion without conducting a misdemeanor procedure. In that case, therefore, the procedure is not conducted, but the police defines the reason for expulsion on the printed form and determines the fine; against this Decision it is only possible to file a claim at the administrative court.

Also, it is important to keep in mind the **Article 126 of the Foreigners Act**, which prohibits forced return of a third-country national to a country where his life or freedom could be endangered because of their race, religion and nationality, social group membership or because of political opinion or where he could be subjected to torture or inhuman or degrading treatment or punishment, death penalty and to a country in which he is threatened with a compulsory deportation to such a state. As for unaccompanied minors, it is common to determine whether a minor in the State of return will be transferred to a family member, appointed guardian or appropriate reception institution.

**None of the above has been done.** In cases where such a danger would have been established, forced return should be postponed, as it should also be postponed in case of serious health problems or if there are other reasons why a person cannot be forcibly returned.

Similarly, **Article 123 of the Foreigners Act** states that the Ministry ensures monitoring of forced returns, for which it may conclude agreements with other state bodies, international organizations and civil society organizations, and to ensure the enforcement of respect of fundamental human rights of third-country nationals who are forcibly returned, forcible return may be technically recorded. A third country citizen will be notified of the purpose of the recording.

**The Ordinance on the Treatment of Third-country Nationals** in Article 20, states that a person is to be arrested in the event of unlawful entry, and the actual content of the certificate of arrest is clearly prescribed, with the exception of arrest in case a third-country national has declared his intent to seek international protection.

The following Article states that a person who has illegally crossed the border is issued a Decision on expulsion, which does not have to be based on a final court decision (instead, on the decision of the executive body, in this case the police), it prescribes a measure of the ban on entering the EEA, relevant deadlines, etc. Article 29, on the Return Decision states that it and other decisions on return are to be issued for each third-country national individually.

In the segment relating to third-country nationals found on the border with a third country, it is considered that a third-country national is found on the border with a third country during or immediately after the illegal entry in accordance with the Article 100, paragraph 3, subparagraph 1 of the Foreigners Act, if he is found in the border area sector, in terms of the regulations determining the border sectors, or if he is found in transport vehicle which he is brought into the depth of the state territory, without stopping on the border crossing.

It is stipulated in **Article 30** that a third-country national referred to in paragraph 1 of this Article shall be issued a Form of conducted border procedure signed by a third-country

national and a police officer. The Ministry secures the printing of such forms in at least five languages most commonly understood by third-country nationals who are illegally entering. That third-country national is returned to the country from which they came from, from the Republic of Croatia.

The Ordinance elaborates in detail the monitoring of forced returns. For example, it determines that the Ministry should prepare a framework for monitoring that organizations should conduct, and that such monitoring includes: monitoring at the police station, the police administration and / or the migrant detention center, observing the transport vehicle, watching at a border crossing.

Most importantly, in the Ordinance, **Article 64** stipulates that the police administration or police station will keep a database of: third-country nationals denied entry and denied entry to third-country nationals for whom a measure to secure return has been applied, temporarily retained foreign travel documents and taken fingerprints, biometric data, and photographs of a third-country national in respect to the measures that have been taken to ensure return. Further provisions specifically detail the content of those records, as well as provide examples of the above Forms. Article 68 states that a database of third-country nationals towards whom a measure of securing return has been applied entails: 1. general information (name, surname, gender ...) 2. general information on the measure 3. specific data about the return measure and then, in Article 70 details special data related to the return measure, among other things - for readmission: the readmission direction, the state of readmission, the type of readmission, the decision on readmission, the reason for rejection.

**Concerning the Readmission Agreement**, it initially calls for respect of the Geneva Convention and the Protocol and, in respect of third-country nationals, it is stated that each Contracting Party, at the request of the other Contracting Party, will accept on its territory a national of a third state or a stateless person who does not fulfill or no longer meets the conditions for entry or stay applicable in the state territory of the Requesting Contracting Party, if it is established or can be reasonably assumed that the said person entered the territory of that Requesting Contracting Party directly after having resided or crossed over state area of the receiving Contracting Party.

The authorities in charge of the Contracting Parties shall take over, without unnecessary formalities and delays (shortened procedure) a third-country national or stateless person, if he is arrested in the territory of the other Contracting Party no later than within sixty-two hours after the unlawful crossing of the state borders. The summary procedure shall only be used where the competent authority of the requesting Contracting Party provides the particulars which enable to establish that that person has illegally crossed the shared border. If the conditions for the return of persons under the shortened procedure are met, the relevant authority of the requesting Contracting Party sends a written notice by e-mail or by fax to the relevant authority of the receiving Contracting Party immediately after oral or a

telephone announcement for acceptance. A record of the return and acceptance shall be made, the content of which is specified in the Protocol.

Regarding the deadlines that the states have to respect, it is stated that the receiving Contracting Party is obliged to respond to the request for acceptance in writing, without delay, and in any case no later than within fifteen days from the date of receipt of the request. Any refusal of acceptance must be explained in writing. The receiving Contracting Party shall accept the person whose acknowledgment was confirmed without delay or at the latest within five working days from the date of the receipt. The requested Contracting Party shall, without delay, take over persons being returned according to the procedure, and at the latest within twenty-four hours from the receipt of the written notice.

From all the above, it follows that in this concrete situation, **the Ministry of the Interior failed to act in accordance with the provisions of the Readmission Agreement, the Foreigners Act and the Ordinance on the Treatment of Third-Country Nationals and thus, not in accordance with European law.** Pursuant to the Foreigners Act and relevant provisions, they are not obliged to issue a Decision on expulsion / return, but are obliged to follow the readmission procedure in accordance with the Readmission Agreement.

Also, they are obliged to keep records, both internal, prescribed by the Ordinance, and to submit data to the authorities of Bosnia and Herzegovina in order to enable the readmission procedure to be conducted in accordance with the said regulations. The mere fact that there are no records, and in countless places those are strictly prescribed, as well as is a very detailed procedure, the fact that the Ombudswoman was prevented from inspecting the records of police stations at the border, which the Ministry of the Interior is obliged to provide on the basis of the Ombudsman Act, suggests that the specific treatment, is not only illegal, but was precisely done in such a way that the legal processing would be prevented and traces covered, and that the provisions of the International and Temporary Protection Act are circumvented. Unlawful treatment was done continuously, repeatedly and systematically, without legal procedure being followed, and in only 10 days videos of more than 350 people, some of whom are members of vulnerable groups, were recorded being pushed back. All of this points to the fact that with such conduct Croatia's Ministry of the Interior is conducting the collective expulsion.

**The reasons why the conduct of the Ministry of the Interior at the border of the Republic of Croatia and Bosnia and Herzegovina meets the elements of the collective expulsion;**

**The prohibition of Collective Expulsion is explicitly prescribed in Article 4 of Protocol No. 4. of the European Convention on Human Rights. Collective Expulsion is considered to be "any measure of the competent authority which forces foreigners as a group to leave the country, unless such a measure is taken over and on the basis of a reasonable and objective examination of individual cases of each person in that group individually. "**

The main purpose of that Article is to prevent states from expelling a number of foreigners without considering their personal circumstances and, consequently, preventing them from bringing arguments against measures taken by the competent authorities.

In the [Guidelines for the interpretation of Article 4 of Protocol No. 4](#) it is stated that the purpose of the Court's decisions on collective expulsion, apart from deciding in individual cases, is to provide guidance to the States Parties to act and in order to clarify, protect and further develop the rules laid down by the Convention.

**The Hirsi Jamaa and others v. Italy** case concerns the case of Somali and Eritrean migrants traveling from Libya, who were being intercepted **by Italian authorities at sea and returned to Libya, which the court ruled as the commission of collective expulsion.** Returning them to Libya, without examining their cases, they exposed them to the risk of abuse and in that way committed collective expulsion. In this context, expulsion should be interpreted in the generic sense as it exists in the current use, i.e. "To get away from a place". Persons referred to in Article 4, or foreigners, third-country nationals are not only those who legally reside on the territory, but all those who do not have the right to nationality, whether they are only passing through a particular country, staying or having a place of residence there, whether they are refugees or have entered the country on their own initiative, they are stateless or have a third-country nationality.

In the specific case, the applicants were part of a group of about two hundred people who left Libya on three vessels in 2009 in order to reach the Italian coast. On 6 May 2009, they were intercepted by the Italian Financial Police and Coast Guard ships. Persons found on vessels were transferred to Italian military points and returned to Tripoli.

**The Court states that in the present case there was no distinction between irregular migrants and asylum seekers who were systematically arrested and detained** under the conditions described by the observers as inhumane, including reports of cases of torture. Refugees were in danger of being returned at any time to their countries of origin. **The Court has found that the existence of domestic laws and the sole ratification of international treaties guaranteeing the respect of fundamental rights are not in themselves sufficient to ensure adequate protection against the risk of abuse, where reliable sources reported practices that were contrary to the principles of the Convention.**

The fact that the applicants did not expressly seeking asylum does not release Italy from fulfilling its obligations arising out of international refugee law, including compliance with the principle of non-refoulement.

Likewise, in this case, the Court for the first time examined whether Article 4 of Protocol No. 4 applied to a case involving the removal of foreigners to a third country carried out outside the national territory. It sought to ascertain whether the transfer of the applicants to Libya had constituted a "collective expulsion of foreigners" within the meaning of that provision. The Court observed that neither Article 4 of Protocol No. 4 nor the *travaux préparatoires* of the Convention precluded extra-territorial application of that Article. Furthermore, limiting its application to collective expulsions from the national territory of Member States would mean that a significant component of contemporary migratory patterns would not fall within

the ambit of that provision and would deprive migrants of an examination of their personal circumstances before being expelled. The notion of “expulsion” was principally territorial, as was the notion of “jurisdiction”. Where, however, as in the case mentioned, the Court had found that a Contracting State had, exceptionally, exercised its jurisdiction outside its national territory, it could accept that the exercise of extraterritorial jurisdiction of that State had taken the form of the collective expulsion.

Furthermore, the Court found that the State party exercised its jurisdiction beyond its national territory precisely for the purpose of conducting collective expulsion.

The Court reiterated the importance of the existence of guarantees to anyone who was subjected to expulsion measures, the consequences of which were potentially irreversible, to obtaining information, in order to allow them effective access to relevant proceedings and to support their complaints on expulsion.

## **CONCLUSION:**

The reason for referring to *Hirsi Jamaa and others against Italy* is precisely because of the **similarity of the conduct of the Croatian border police and the Italian authorities**, in the case where the breach of the prohibition of collective expulsion is unambiguously established. **Croatian police pushes back a large number of third-country nationals, without enforcing a procedure that they are obliged to do by national and international law, thus directly violating the prescribed provisions. It disallows refugees’ access to the system of international protection, to which they have a right. Moreover, they do not conduct any measures to distinguish refugees and irregular migrants, as they do not check for any of vulnerable groups among those persons. The fact of police departures outside of the territory of the Republic of Croatia in the cases of expulsion only serves to prove that it was conducted in such a way precisely for the purpose of conducting collective expulsion and in order to prevent access to the system of international protection, in the same way as it was established in the case against Italy.** As in the case of Italy, the fact of the existence of international conventions and national regulations does not in itself guarantee respect for fundamental human rights and freedoms, which is particularly clear in the light of the countless reports of systematic violations of rights recorded by a number of stakeholders who have insight into the situation at the border, as well as the most recent publishing of videos that recorded the illegal conduct of the Ministry of the Interior.

Particularly worrisome are statements by Mr. Ničeno, Chief of the Ministry of Interior's Border Administration, given in the media (*Otvoreno* on December 18, 2018) regarding the publication of incriminating videos. Starting from his categorical assertion that persons trying to enter the territory of Croatia are not refugees, that they do not seek protection, nor intend to remain in the Republic of Croatia, it is important to recall and emphasize that *a refugee*, in the context of international law is a declaratory term, not constitutive, and that a person becomes a refugee at the moment of fulfillment of assumptions given in the Convention on

the Status of Refugees. A person does not become a refugee because their status is recognized, but instead, their status is recognized specifically because they are a refugee, and for which a legal procedure must be conducted.

The obligation of the Croatian police, as an executive authority, is to act in accordance with the Constitution and the law, with the obligations assumed by international conventions and law, and within its powers. There is a clearly defined procedure for granting international protection, from first contact and expressing intent, to finally being granted asylum, and there is no discretionary assessment to be made by police officers to evaluate on the spot whether or not someone is a refugee. The law clearly sets out the conditions for expressing intent for seeking international protection in Article 33 of the International and Temporary Protection Act, and even Mr. Ničeno acknowledged this by saying that third-country nationals in this situation would have the right to apply if they were indeed in the territory of the Republic of Croatia, but since the controversial conduct of the police does not take place in Croatia, they do not have that right. This clearly and unequivocally confirmed that the conduct of the police was done in this specific manner precisely with the goal of preventing and circumventing the provisions of the Law on International and Temporary Protection and relevant international obligations. Also, his rejection to answer the question as to whether the legal entry is a prerequisite for expressing intent to seek international protection (which is not), points to the fact that he is aware of the legal obligations of the police, as well as the fact of the unlawful conduct. The police systematically conducts collective expulsions from their territory or near the borderline with Bosnia and Herzegovina, or in the territory of Bosnia and Herzegovina itself, and as previously stated, the reasons as to why each of these scenarios is unlawful is clear.

This is also supported by the data that Mr. Ničeno has given about the data on the number of readmission to Bosnia, about which he stated that around six hundred persons have been returned to Bosnia in the past eleven months, while only in the period from September 29th to October 10th, in which the video recorded the police conduct, expulsion of at least 350 people was recorded, which leads to the conclusion that the number of readmissions is not real, that is, it indicates that the procedure is not carried out in each individual case in accordance with the regulations. Furthermore, the numbers relating to the number of filed applications for international protection are hard to correctly ascertain since, among 1039 persons, there are also people that the Republic of Croatia is obliged to receive under the quotas within the program of readmission and resettlement.

While discussing the departure of asylum seekers from Croatia, it is important to refrain from simplifying the reasons and implicating the maliciousness of the asylum seekers. It is important to keep in mind the poor reception conditions in the Republic of Croatia, the unjustified duration of the procedure, as well as a very small number of positive asylum decision, integration issues, all of which are factors that have a role in the decision to leave. It is not unlikely that refugees whose applications were rejected in the Republic of Croatia are granted asylum in Austria or Germany on the grounds that were not sufficient for Croatia. Also, it is difficult to expect the will to remain after the abuse and repeated expulsion, for

which there are numerous testimonies. Thus, the Security Minister of Bosnia and Herzegovina Dragan Mektić stated on December 16, 2018 that the Bosnian-Herzegovinian police had evidence that Croatian police were returning migrants from their territory and abusing them, noting that such treatment was shameful for a European Member State.

On the basis of everything stated, including publicly available data and reports of numerous non-governmental organizations on systematic violations of human rights on Croatian borders, and publicly displayed videotapes on border conduct, it is evident that the conduct of the Croatian border a is not in accordance with European and national legislation. It fulfills all elements of the collective expulsion, is organized in a systematic manner, which clearly entails the responsibility of the Police Directorate, Interior Minister Davor Božinović, Chief of the Border Administration Zoran Ničeno, as well as individual police officers who, in spite of the existing legal option to refuse the execution of an illegal order, by their actions have overstepped their powers and violated the laws, and therefore this inhumane and illegal practice requires sanctioning and termination.